

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA,

Plaintiff,

Case No.:  
18-15099 (AET) (ZNQ)

v.

SHANT HOVNANIAN, et al.,

Defendants.  
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Remote Deposition of MICHAEL MACGILLIVRAY

Friday, February 5, 2021

12:03 p.m. (EST)

Reported by:

Stephanie M. Butler

Job No.: 1289

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February 5, 2021  
12:03 p.m. (EST)  
Manahawkin, New Jersey

Remote Deposition of Michael  
MacGillivray, held via Zoom  
videoconferencing, pursuant to Subpoena,  
before Stephanie M. Butler, a Notary Public  
of the State of New York.

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R E M O T E      A P P E A R A N C E S :

U.S. DEPARTMENT OF JUSTICE

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A L S O      P R E S E N T :

ELZA GRIGORYAN,

HANAMIRIAN LAW FIRM, P.C.

1 MACGILLIVRAY

2 THE COURT REPORTER: My name is  
3 Stephanie Butler, a New York State  
4 notary public.

5 This deposition is being held  
6 via videoconferencing equipment. The  
7 witness and reporter are not in the  
8 same room.

9 The witness will be sworn in  
10 remotely, pursuant to agreement of all  
11 parties. The parties stipulate that  
12 the testimony is being given as if the  
13 witness was sworn in person.

14 M I C H A E L M A C G I L L I V R A Y,  
15 called as a witness, having been duly  
16 sworn by a Notary Public, was  
17 examined and testified as follows:

18 MR. HANAMIRIAN: Last night, I  
19 guess you guys sent over a -- this  
20 memorandum from Chief Counsel relative  
21 to guidelines or parameters of the  
22 deposition itself. I don't know if  
23 you want to you offer -- you said you  
24 wanted to offer that as an exhibit?

25 MR. KUNOFSKY: Yes.

1 MACGILLIVRAY

2 MR. HANAMIRIAN: So I don't have  
3 any objection to that.

4 MR. KUNOFSKY: We'll send to the  
5 court reporter at the end of this  
6 deposition Mr. MacGillivray's  
7 testimonial authorization issued by  
8 the Office of Chief Counsel from the  
9 IRS and the -- Mr. MacGillivray wants  
10 to read and sign.

11 (Whereupon, Office of Chief  
12 Counsel Internal Revenue Service  
13 Memorandum, was marked as Plaintiff's  
14 Exhibit 1 for identification, as of  
15 this date.)

16 MR. HANAMIRIAN: I think you  
17 need that for the record. Good. All  
18 right. So where are we?

19 EXAMINATION BY

20 MR. HANAMIRIAN:

21 Q State your name for the record.

22 A Michael MacGillivray.

23 Q State your address for the  
24 record.

25 A 4 Paragon Way, Suite 2,

1 MACGILLIVRAY

2 Freehold, New Jersey 07728.

3 Q Mr. MacGillivray, how are you?

4 A I'm well.

5 Q Do you have any questions about  
6 the deposition process? I'm sure Ari or  
7 Cat or both have prepared you for today.

8 A No questions, sir.

9 Q Have you given a deposition  
10 before?

11 A On one occasion. It was a  
12 relatively short matter. My son was  
13 involved in a car accident. I owned the  
14 vehicle. There was an injury and he was  
15 sued, and it was a 10-minute deposition  
16 that I sat for.

17 Q So you've been in the  
18 environment before?

19 A Yes, sir.

20 Q Okay. So you don't need my  
21 help.

22 So, in any event, we're here,  
23 obviously, today for this matter relative  
24 to the two trusts and to -- well, formerly  
25 two -- Shant Hovnanian.

1 MACGILLIVRAY

2 What's been your role in the  
3 underlying tax matter in this case?

4 A I was the revenue officer.

5 Q And so were you the first, the  
6 last, the middle, or the only revenue  
7 officer who participated in the case?

8 A I was one of three revenue  
9 officers, as I recall, that worked the  
10 case.

11 Q Do you remember who the other  
12 two are?

13 A Yes.

14 Q Okay.

15 Can you tell us?

16 A There was a gentleman named Gary  
17 Rutledge that was involved and a woman  
18 named Rebecca Troichuk.

19 Q Okay.

20 Are they both out of the Paragon  
21 Way office?

22 A Mr. Rutledge was from the Cherry  
23 Hill office.

24 Q Okay.

25 A Rebecca Troichuk was from the

1 MACGILLIVRAY

2 Freehold office.

3 Q Okay.

4 And is there any rationale to  
5 the sequencing? Did you just take over  
6 the file, or was there reason that it went  
7 from one to the next to you?

8 A I was the primary revenue  
9 officer.

10 Q Okay.

11 Are you good? I'm sorry, did it  
12 freeze or --

13 A I got a -- something came --  
14 something came up saying that it was --  
15 can you hear me now?

16 Q Yes.

17 MR. KUNOFSKY: Yes.

18 A Okay, because something came up  
19 saying that my connection was unstable.

20 Q It said it's unbelievable, yes,  
21 yes.

22 A So I was the primary revenue  
23 officer. My supervisor at the time  
24 assigned the other revenue officers to  
25 work the case with me.

1 MACGILLIVRAY

2 Q Oh, okay.

3 Okay, so you were always  
4 involved?

5 A I believe so, yes.

6 Q Okay.

7 And then what was the  
8 precipitating event? Was there an audit?  
9 Was there -- what started the process  
10 within the service?

11 A There -- I know that the  
12 assessments that I was assigned to collect  
13 resulted from a -- tax court cases.

14 Q Okay.

15 And so there wasn't -- so, I  
16 mean, to your knowledge, there wasn't an  
17 independent audit, but rather it was just  
18 collecting the assessment coming out of  
19 the case out of the litigation?

20 A Yeah, I have no -- I was not  
21 involved in the assessment piece.

22 Q Okay. Okay.

23 And so the underlying -- we  
24 don't know -- or do you know if there was  
25 any -- if there was any administrative

1 MACGILLIVRAY

2 process before it went to tax court? Did  
3 they go through appeals? Did it come out  
4 of audit and went through appeals and then  
5 to tax court, or you don't know?

6 A All of that seems likely.

7 Q Yes.

8 A I don't recall. I mean, I  
9 wasn't involved in that, so I have no  
10 personal knowledge of exactly what  
11 transpired.

12 Q Okay.

13 So your role in this instance  
14 was supervisory on the collection side  
15 only, and then supervising two other  
16 personnel or two other revenue officers in  
17 the process?

18 A My role was not supervisory.

19 Q I'm sorry. Go ahead. You --

20 A My role was that of a revenue  
21 officer.

22 Q Okay.

23 A Well --

24 Q Yes, and I don't -- I just want  
25 to understand. I don't -- because it

1 MACGILLIVRAY

2 doesn't make sense just because I don't  
3 understand.

4 So did you have a team? Were  
5 the three of you a team?

6 A My supervisor had assigned these  
7 other revenue officers to assist with the  
8 case.

9 Q Oh, okay. Okay.

10 And to assist you?

11 A Yeah.

12 Q I don't know if it matters.

13 A Yeah.

14 Q I just want to understand.

15 A Yeah. I would say so, yeah.

16 Q Okay. Okay.

17 And so, then, how did the  
18 process begin?

19 A The collection process?

20 Q Yes.

21 So it comes out of tax court.

22 There's a judgment. The appeal period  
23 expires. They send it over to collection.

24 And then what happened here?

25 A My first activity was to -- at

1 MACGILLIVRAY

2 first, I received two of the four periods.  
3 The other two were not immediately  
4 assigned to me. One had been placed into  
5 a currently-not-collectible status  
6 erroneously.

7 Q One of the years?

8 A One of the years.

9 Q How many years were in issue; do  
10 you remember?

11 A I recall four years.

12 Q Okay. Okay.

13 A So I was initially assigned two.  
14 One of the years had this erroneous  
15 currently-not-collectible status based on  
16 an erroneous collection statute. I  
17 processed paperwork to have that assigned  
18 to me.

19 The fourth period remained with  
20 a litigation hold based on the tax court  
21 case, and I received assignment of that  
22 sometime later.

23 Q Okay.

24 So when you say -- you know I'm  
25 going to ask.

1 MACGILLIVRAY

2 So an erroneous collection  
3 statute issue, I guess, did somebody  
4 present an argument to somebody within the  
5 service that the time for collection with  
6 respect to a particular year had expired  
7 based on the statute?

8 A I have no direct knowledge of  
9 who put it into a non-collectible status,  
10 but it was probably based on a transcript,  
11 the reading of a transcript.

12 Q Oh, so it may have been done  
13 independently within the service without  
14 some outside participation?

15 A That's my belief, yes.

16 Q Oh, okay. Okay.

17 And then the fourth period, were  
18 you the -- the fourth one, you were saying  
19 was held on litigation hold?

20 A Yes, sir.

21 Q The time for the tax court  
22 matter hadn't expired at that point.  
23 Okay. Okay.

24 And so then what was your -- all  
25 right, so you get involved.

1 MACGILLIVRAY

2 You have these, now, four  
3 periods, right? Once you have all the  
4 periods in issue, then what? What's your  
5 process, or what was your process?

6 A I contact -- well, we sent out  
7 letters of -- Letter 1058, Final Demand  
8 Letter.

9 Q Okay.

10 A And I contacted Mr. Hovnanian's  
11 power of attorney, a gentleman named Read  
12 Rankin, as I recall.

13 Q Yes, attorney, yes.

14 And what's the dialogue there if  
15 you recall?

16 A We discussed the liabilities. I  
17 requested -- well, initially, he was  
18 unsure if he would represent Mr. Hovnanian  
19 or not in the collection matter.

20 Q Okay.

21 A And he wanted to contact  
22 Mr. Hovnanian to see if he would still  
23 represent him.

24 Q Okay.

25 So I guess he did that, yes?

1 MACGILLIVRAY

2 A Yeah, subsequently, he  
3 determined that he would represent  
4 Mr. Hovnanian. Financial information was  
5 requested.

6 Q 433 stuff, the financials?

7 A Yes, sir.

8 Q Okay.

9 And was that received? Did you  
10 get that?

11 A No, sir.

12 Q Was there any reason given or --

13 A No, sir, not that I recall.

14 Q So what happened? Did the  
15 process then stop as far as the  
16 communication with Mr. Rankin?

17 A There were a few -- there may  
18 have been another call, but at that point  
19 I started to -- an investigation to  
20 determine other -- you know, to determine  
21 income and assets.

22 Q On your own?

23 A As a revenue officer.

24 Q Did you send out summonses?

25 A In the case, yes.

1 MACGILLIVRAY

2 Q Okay. Okay.

3 We have -- in the discovery  
4 process here from Ari's office, they sent  
5 over documentation that appears to be  
6 responsive to some sort of request on your  
7 part, either summons or whatever. But  
8 typically summons is why I say it.

9 Can I go through some of that  
10 with you?

11 A Of course.

12 Q Up on this -- on the shared  
13 screen, which I just learned about 40  
14 minutes ago. Have some patience.

15 Look at number 17, so it would  
16 be MM17.

17 MR. HANAMIRIAN: For those  
18 playing along at home, it's MM17.

19 (Whereupon, PNC Bank Records  
20 Bates-stamped USAPROD-000458 through  
21 USAPROD-000510, were marked as  
22 Defendants' Exhibit 1 for  
23 identification, as of this date.)

24 BY MR. HANAMIRIAN:

25 Q Is the document turning page for

1 MACGILLIVRAY

2 you now?

3 A It did turn page.

4 Q It did?

5 A It did.

6 Q Okay. Good. So then I've got  
7 it. Okay. Thank you. And, again, I  
8 apologize. Just indulge me because it's  
9 my first time doing it that way. Okay.

10 So this document -- I wanted to  
11 go back to this page dated August 22,  
12 2017, addressed to R. Troichuk, whom you  
13 identified as another revenue officer who  
14 was involved in the case, correct?

15 A Yes, sir.

16 Q And this is relative -- it  
17 says -- the re: says, "Zargis Medical  
18 Group."

19 And this is, what, if you  
20 recall? What is this set of documents?

21 A That is a cover letter from PNC  
22 Bank indicating that there are bank  
23 records attached.

24 Q For Zargis Medical Corp.?

25 A Yes, sir, for Zargis Medical

1 MACGILLIVRAY

2 Corp.

3 Q So how did you get to Zargis  
4 Medical Corp. from Shant Hovnanian, if you  
5 recall?

6 A Well, the -- some of the  
7 tenants -- Zargis Medical Corp.

8 Q Take your time. Even I tell my  
9 own people, it's never a test. Just, you  
10 know, if you --

11 A I believe Zargis Medical Corp.  
12 stemmed from the payment of municipal  
13 taxes on real property.

14 Q Municipal property tax?

15 A Yeah.

16 Q Okay.

17 A Yeah.

18 Q Okay.

19 So Zargis had paid -- or you  
20 think that Zargis had paid property tax on  
21 behalf of -- or on the real estate that  
22 was part of this -- that's the subject of  
23 this nominee lien?

24 A Payment was made through the  
25 Zargis account, as I recall.

1 MACGILLIVRAY

2 Q Okay.

3 Did you find anything in the PNC  
4 documents that was helpful in support of  
5 that assertion?

6 A I don't recall.

7 Q Okay. Okay.

8 Then in -- foreshadowing because  
9 I gave the -- in MM19 --

10 MR. HANAMIRIAN: Which would  
11 then, Stephanie, be D2. I'll lose  
12 track soon, but that's D2. Thank you.

13 (Whereupon, Postal Tracer  
14 Bates-stamped USAPROD-000536, was  
15 marked as Defendants' Exhibit 2 for  
16 identification, as of this date.)

17 BY MR. HANAMIRIAN:

18 Q What's this document? Can you  
19 see it?

20 A I can.

21 Q Can I say "Mike" or do I need to  
22 say Agent --

23 A No. You can call me Mike.  
24 That's fine, sir.

25 Q Thank you. Thank you.

1 MACGILLIVRAY

2 This document is what?

3 A I'm looking at a postal -- what  
4 we call a postal tracer.

5 Q Okay.

6 And what is that?

7 A It's a document that we present  
8 The Post Office.

9 Q Okay.

10 A And we ask them to let us know  
11 whether mail is delivered to a given  
12 individual at a certain address.

13 Q Okay.

14 Now, are there any criteria for  
15 you being able to do that? Like you can't  
16 just do that, right? Is there -- you have  
17 to go through any kind of hoops to get to  
18 that, to request that postal tracer?

19 A There's no approval required --

20 Q Not a --

21 A -- for a postal tracer.

22 Q I'm sorry to interrupt you. Go  
23 ahead.

24 A No approval for a postal tracer.

25 It's within a revenue officer's authority

1 MACGILLIVRAY

2 to do that.

3 Q And what's the objective?

4 I mean, it seems pretty obvious,  
5 but just so -- when you read it on paper,  
6 it's different than what was in our minds.

7 So what's the objective of the  
8 tracer?

9 A It's a tool used to ascertain  
10 the residence or location of an  
11 individual.

12 Q And in this instance, for what  
13 purpose?

14 A To see if Shant Hovnanian  
15 received mail at 520 Navesink River Road.  
16 It's a Red Bank mailing address. Location  
17 is Middletown, New Jersey.

18 Q Okay.

19 And did you -- do you recall  
20 whether you found out the answer?

21 A The answer is this exhibit. It  
22 says, "Mail is delivered to address  
23 given."

24 Q Okay.

25 And that's -- at that time,

1 MACGILLIVRAY

2 that's in 2016, yes?

3 A My eyes are -- that does appear  
4 to be a six, yes. That appears to be '16.

5 Q My eyes, yes. All right, yes.  
6 Okay.

7 And was there any other postal  
8 tracer that you issued?

9 A Yeah. I recall some subsequent  
10 postal tracers for -- or, you know, I  
11 don't know if they were subsequent. I do  
12 recall some additional postal tracers  
13 being sent.

14 Q And do you know -- okay.

15 But they aren't a part of your  
16 file, I guess, or you don't --

17 A They would be in the collection  
18 file, I would think.

19 Q They would? Yes. Okay. Okay.  
20 Maybe we just don't have it for whatever  
21 reason.

22 Do you recall whether there was  
23 any point where mail or the box that said  
24 that there was -- that other than mail was  
25 delivered at this address given was

1 MACGILLIVRAY

2 checked on any of the subsequent tracers?

3 A I don't believe so. I don't  
4 specifically recall.

5 Q Okay. Okay.

6 Now, going to MM -- this is  
7 still part of 19, but it's out of order in  
8 the context of the questioning, so just  
9 bear with me because we talked about  
10 PNC -- we talked about PNC Bank and the  
11 production.

12 And so there are a couple checks  
13 here that I just want to ask you about.  
14 This one in particular. There's a  
15 cashier's check here.

16 MR. HANAMIRIAN: And this is, I  
17 guess, D3, right, Stephanie?

18 (Whereupon, Various Documents  
19 Bates-stamped USAPROD-000537 through  
20 USAPROD-000543, were marked as  
21 Defendants' Exhibit 3 for  
22 identification, as of this date.)

23 MR. KUNOFSKY: John, you said  
24 this was --

25 MR. HANAMIRIAN: I think it's 20

1 MACGILLIVRAY

2 now right. It says 20 up on my screen

3 I think it was just mismarked on my

4 paper here. So anyway. All right.

5 BY MR. HANAMIRIAN:

6 Q So then I see a check here

7 for -- to the Township of Middletown,

8 319,349.49.

9 Is that the property tax check

10 that you were talking about, a payment

11 that you talked about earlier?

12 A Yes.

13 Q Okay. Okay. Let me see what

14 else is here.

15 Do you recall whether there were

16 any other checks from Zargis payable out

17 in those -- into that type of an amount on

18 behalf of Shant or whomever else that

19 might have been paid on behalf of?

20 Do you recall seeing anything

21 else in there that struck you in that PNC

22 production or in that --

23 A I don't recall.

24 Q Okay. Okay.

25 In 20, again, on page 2 here,

1 MACGILLIVRAY

2 there's the Township of Middletown Office  
3 of Tax Collector. It's like a receipt,  
4 yes?

5 Do you recall seeing this  
6 document?

7 "Statement of Taxes", it says.

8 Does that look familiar at all?

9 A I don't recall seeing this.

10 Q At the bottom here, it says they  
11 received a check for whatever amount -- in  
12 the amount of 319,349.49 for the  
13 redemption of a tax sale, certificate  
14 number so and so.

15 Are you familiar with the tax  
16 sale process and real property collection?

17 A Yes.

18 Q Okay.

19 And so -- okay. It appears as  
20 if this check that satisfied the tax lien  
21 on the real estate, the real property tax  
22 lien came from this Zargis and was paid  
23 over to the Township and it released some  
24 tax sale certificates a private person had  
25 purchased.

1 MACGILLIVRAY

2 Is that your understanding?

3 A Yes.

4 Q What did you -- as they say in  
5 the movies, what did you make of that?

6 A That payment had been made on  
7 behalf of Shant Hovnanian.

8 Q Okay.

9 And what's the significance of  
10 that, if any?

11 A It was a factor in our  
12 decision -- or my decision to request  
13 permission to record nominee -- a nominee  
14 lien.

15 Q So -- and that's because Zargis  
16 paid on behalf of -- well, I mean, the  
17 owner on this -- let me just go back.

18 The Certificate of Sale -- going  
19 back up to that page 2 that we talked  
20 about, the -- well, it looks like a  
21 receipt from the delicatessen, but it's  
22 from the Township of Middletown.

23 I'm sorry for my little jokes.

24 I'm usually entertaining myself.

25 But the Statement of Taxes says

1 MACGILLIVRAY

2 the owner's name is Pachava Asset Trust,  
3 yes?

4 A That's what it says, yes.

5 Q Okay.

6 And so then the payment came  
7 from Zargis on behalf of Pachava Asset  
8 Trust. And you're saying that that's for  
9 the benefit of Shant and that that formed  
10 at least one of the criteria or one of the  
11 bases for the assertion of a nominee lien?

12 A Yes.

13 Q Did Shant own Zargis?

14 A That was my understanding.

15 Q How did you come to that  
16 understanding?

17 A I believe it was from bank  
18 records and tax returns.

19 Q Okay.

20 For Zargis or for Shant or do  
21 you know?

22 A I'm trying to recall. I think I  
23 remember speaking with someone who advised  
24 that Shant owned Zargis. My memory is  
25 failing there.

1 MACGILLIVRAY

2 Q Okay. Okay.

3 And so they -- and him having  
4 the -- if he controlled it, him having the  
5 company pay a property tax liability on  
6 behalf of the trust would be the basis  
7 that you're setting forth, or at least one  
8 of the bases for pursuing the nominee lien  
9 claim?

10 A Yes.

11 Q Did you -- did he have any  
12 other -- did Shant have any other assets  
13 that you were able to find or able to --  
14 you know, that you were able to find in  
15 your -- I mean, I know that you said that  
16 the -- I'm going to shortcut because I'm a  
17 tax lawyer, but the 433 is the financial  
18 statements, so to speak.

19 Those weren't provided to you,  
20 so you then had to go out and do the  
21 digging yourself.

22 And so did you find any other  
23 assets of Shant's in there -- in your  
24 search?

25 A Not really. I want to say we

1 MACGILLIVRAY

2 may have uncovered some IRA accounts with  
3 very small balances I recall seeing in the  
4 history, but nothing of any substance.

5 Q Could you discern whether he had  
6 any visible means of support?

7 That's such a lawyer question,  
8 but you know what I'm saying.

9 A Through monies flowing into  
10 businesses that he owned. That was all  
11 that I can recall.

12 Q Okay.

13 And I don't have a plan for  
14 this, but before you answer, wait for  
15 Mr. Kunofsky or Ms. Coppler to chime,  
16 okay.

17 But do you know whether -- and I  
18 can't tell from the file.

19 Do you know whether the Criminal  
20 Investigations Division of the service was  
21 ever -- ever looked at the file at any  
22 point?

23 MR. KUNOFSKY: I'm objecting.

24 And you are instructed not to  
25 answer that question. That's --

1 MACGILLIVRAY

2 MR. HANAMIRIAN: Okay.

3 And the only reason I ask, just  
4 so -- for foundational purposes, if it  
5 ever is an issue, is that there are  
6 portions of your -- of the record that  
7 are redacted based upon  
8 attorney-client, and so I'm just more  
9 than curious. So --

10 MR. KUNOFSKY: Attorney-client  
11 is not quite the same, but I'm going  
12 to instruct him not to answer that  
13 question.

14 MR. HANAMIRIAN: No, I  
15 understand. No, and I'm not  
16 suggesting that that's the basis for  
17 your instruction. I probably  
18 understand the basis for your  
19 instruction. Okay.

20 MR. KUNOFSKY: It's that he  
21 could not comment on criminal matters,  
22 and so he essentially -- so he cannot  
23 comment one way or the other, and  
24 nothing should be read from my  
25 objection. There's no need for him to

1 MACGILLIVRAY

2 discuss criminal files in this matter,  
3 to the extent they exist.

4 MR. HANAMIRIAN: Yes, okay.

5 Okay.

6 BY MR. HANAMIRIAN:

7 Q And so -- all right.

8 Let's go through some of this  
9 other paperwork to the extent that it  
10 matters. We have a lot of paper. I just  
11 want to try and figure out what might  
12 matter, obviously.

13 Moving to 24 here, which is my  
14 24. Let me just see what that translates  
15 into.

16 (Whereupon, Response to Summons  
17 Bates-stamped USAPROD-000785 through  
18 USAPROD-000800, was marked as  
19 Defendants' Exhibit 4 for  
20 identification, as of this date.)

21 BY MR. HANAMIRIAN:

22 Q This is a document -- can you  
23 see the document up?

24 A I can see it.

25 Q Jerry Hillman, LLC, Tax Prep

1 MACGILLIVRAY

2 Services, Village Mall; do you know what  
3 this document is? This is addressed to  
4 you, right?

5 A It is.

6 This is a letter from a tenant  
7 at the Village Mall. I believe he  
8 provided this in response to a summons.  
9 Actually, it says right on it. And he's  
10 providing information about his rental of  
11 the unit.

12 Q Okay.

13 I mean, in the context of the  
14 summons, I agree with you; it says it  
15 right in it. I don't have the summons,  
16 though.

17 It appears as if you may have  
18 asked a few questions here, right? Can  
19 you back into what you might have asked?

20 Obviously, you asked for a  
21 lease. You asked --

22 A Well --

23 Q -- whether it was a renewal or  
24 what's the current status, what the -- and  
25 then can you go from there based upon what

1 MACGILLIVRAY

2 his responses are?

3 A He's indicating that he's  
4 month-to-month on the lease, that until  
5 January of 2017, rental checks were made  
6 payable to Vahak Hovnanian.

7 Q Okay.

8 A From February 2017 thereafter,  
9 rental checks were made payable to Hovsat,  
10 Incorporated, and his contact is Karen  
11 Gandolfo.

12 Q And then he says, "And just for  
13 the record," which is -- do you think that  
14 this is gratuitous, or is this in the --  
15 he said, "I've never heard of Shant  
16 Hovnanian."

17 Is this a -- is that gratuitous  
18 or is that in response to a question that  
19 you may have asked?

20 A I likely asked. I spoke with  
21 some of the tenants and asked who the  
22 landlord was. I may have asked  
23 Mr. Hillman if Shant was the landlord. I  
24 don't specifically recall.

25 Q Did you ever meet with any of

1 MACGILLIVRAY

2 the tenants, including Mr. Hillman?

3 A Yes.

4 Q Who did you meet with, if you  
5 recall?

6 A I met with Mr. Hillman at one  
7 point. There was a -- two medical  
8 offices, a hairdresser, and a woman named  
9 Viro (phonetic), I think her name was.

10 Q Okay.

11 Is that it? What's the -- what  
12 did the plaza look like?

13 I don't know what the office  
14 plaza looked like. So there were four  
15 different --

16 A Yeah. There were like office  
17 suites.

18 Q Okay.

19 A Like business office suites.

20 Q And maybe, what, four or five of  
21 them?

22 A The ones that I just -- yeah,  
23 that I just said.

24 Q Yes. And -- okay.

25 And was Hovsat there; do you

1 MACGILLIVRAY

2 know? Hovsat, Inc., who he refers to in  
3 this later?

4 A My understanding -- I'm sorry.

5 Q No, no. You go.

6 A My understanding is that the  
7 business office for multiple  
8 Hovnanian-related business entities was at  
9 this address, so that would include  
10 Hovsat.

11 Q Is that -- from your perspective  
12 and respecting the guidelines that you're  
13 subject to, is that a problem in this  
14 case?

15 Does that reflect anything, you  
16 know, that you have a number of entities  
17 sharing the same space in the same  
18 building complex or whatever? Is that any  
19 indicator in your mind of anything  
20 relative to Shant or these entities?

21 A You're asking the simple matter  
22 of just multiple business entities at one  
23 location?

24 Q In this case. I don't think  
25 you're allowed to answer the -- what

1 MACGILLIVRAY

2 you're suggesting.

3 But in this case, did it make  
4 any difference?

5 A No. I don't believe so, no.

6 Q Okay.

7 So it was a nonevent that they  
8 were all together in this one suite, in  
9 your mind?

10 A In my mind, it's not of  
11 consequence.

12 Q It was not -- and further down  
13 that road, so was it any part of your  
14 decision-making or was it -- did it form  
15 any part of any basis or the basis for any  
16 piece of asserting a nominee lien?

17 A The fact that multiple business  
18 entities were headquartered at this one  
19 location, in my mind, played no role in my  
20 decision-making.

21 Q Okay.

22 You know, then I don't need  
23 to -- then I don't need to go through all  
24 of that documentation relative to the  
25 leases and where the rent went and

1                   MACGILLIVRAY  
2     whatever else in that scenario, which is  
3     helpful. It's helpful for the balance of  
4     your day, my day, everybody's day. All  
5     right.

6                   So in -- that's my MM21. Okay.  
7     This is MM21.

8                   MR. HANAMIRIAN: And, again,  
9     I've already lost track on the D  
10    numbers. 5, I'll just give you.  
11                  (Whereupon, Response to Summons  
12    Bates-stamped USAPROD-000544 through  
13    USAPROD-000566, was marked as  
14    Defendants' Exhibit 5 for  
15    identification, as of this date.)

16    BY MR. HANAMIRIAN:

17       Q       And so this -- do you recognize  
18    this correspondence?

19               I know it's written to some  
20    other revenue officer, but somebody that  
21    was a part of your group in this case.

22       A       That appears to be a cover  
23    letter from Morgan Stanley with bank  
24    records underneath it.

25       Q       Okay.

1 MACGILLIVRAY

2 And then the re: on this, Mike,  
3 is "In the matter of Shant Hovnanian,"  
4 right? Is that how this case was  
5 designated internally?

6 A Yes.

7 Q Okay.

8 And then there are a series of  
9 checks I'm going through. Here's one  
10 for -- and I think that Mr. Kunofsky  
11 brought up this check in the context of a  
12 deposition of Ms. Gandolfo. It's a check  
13 payable to the Ranney School for \$41,000.

14 Did that check strike you, get  
15 your attention in this production, or did  
16 you see these documents? I know that they  
17 were addressed to your coworker,  
18 Ms. Troichuk, but did you see them?

19 A Yes, I did see these.

20 Q Do you remember this check in  
21 particular?

22 A Not specifically, but I can see  
23 what it is.

24 Q Okay.

25 And this is a check from -- it

1 MACGILLIVRAY

2 appears as if it's a check made out -- and  
3 then I'm just looking at the actual  
4 physical check itself -- SpeedusNY.com,  
5 and then Shant's name underneath, right,  
6 on the face of the check?

7 A Yes.

8 Q Okay.

9 Do you -- what do you know about  
10 SpeedusNY.com, L.P., if anything?

11 A That it's a company owned by  
12 Shant Hovnanian.

13 Q It is -- he does own Speedus?  
14 Okay.

15 And do you know what Speedus --

16 A That's my recollection, yeah.

17 Q Okay.

18 I knew of it -- I've read and  
19 seen a Speedus, Inc. I didn't know  
20 SpeedusNY.com, L.P. Maybe that's the  
21 legal name.

22 I had heard along the way this  
23 was publicly traded.

24 Is that consistent with your  
25 recollection?

1 MACGILLIVRAY

2 A My recollection is that there  
3 were two entities.

4 Q Okay.

5 A Speedus was publicly traded at  
6 one time.

7 Q Okay.

8 A I don't believe SpeedusNY.com  
9 was.

10 Q Do you know what SpeedusNY.com  
11 was? Were you able to dig around and find  
12 out anything about that?

13 A I don't recall.

14 Q Okay. Okay.

15 There's another check here  
16 for -- it looks like Dr. Katz, right? And  
17 don't these seem -- these seem a little  
18 bit as if they might be personal expenses;  
19 do you think?

20 A They do strike me as personal  
21 expenses.

22 Q Do you recall whether that was  
23 any kind of red flag for you in this  
24 process, that there --

25 A That was a factor. I believe

1 MACGILLIVRAY

2 that was a factor, I believe, in a request  
3 I made to survey nominee levy.

4 Q At Morgan Stanley?

5 A I believe so, yes.

6 Q What was the result of the  
7 request for the nominee levy?

8 A The Office of Chief Counsel --  
9 Ari is speaking, but his mute is on.

10 MR. HANAMIRIAN: Oh, yes. All  
11 right. Go ahead. I'm sorry.

12 MR. KUNOFSKY: Sorry, I've got a  
13 dog who barks in the background, so  
14 sometimes I may just hold up my hands.

15 Mike, I'm going to instruct that  
16 you cannot -- you can tell the --  
17 whether a levy issued. You can't say  
18 anything about the process as that  
19 involves attorney-client. So,  
20 carefully, you can answer that  
21 question because it was just --

22 THE WITNESS: I understand.

23 A Based on my recollection, a  
24 nominee levy was served.

25 Q It was served. Okay. Okay.

1 MACGILLIVRAY

2 And that was relative to Shant  
3 Hovnanian, to SpeedusNY.com, L.P., both?

4 A The levy was served at Morgan  
5 Stanley.

6 Q Okay.

7 A I believe attached funds in this  
8 account.

9 Q Okay. Okay.

10 Oh, so there was just one  
11 account there potentially?

12 A I don't recall.

13 Q Okay. Okay. All right.

14 Then there's a series. I'm just  
15 going through the document. There are a  
16 series of line items and transactions  
17 through here. Okay.

18 What was the total amounts of  
19 the four years of liability for Shant? Do  
20 you remember the tax? I mean, interest  
21 and penalty doesn't matter, but do you  
22 remember even on a napkin basis what the  
23 total liability was?

24 A I really don't recall any  
25 specifics. I know it was in the millions.

1 MACGILLIVRAY

2 Q Okay.

3 And what did it stem from? Do  
4 you know where the liability originated?  
5 Not the years or the tax return, but the  
6 type of -- you know, was it wrong  
7 deductions? Was it shelter? Was it --

8 A Yeah, again, I was not involved  
9 in the audit process or the tax court  
10 cases. I really can't comment on -- I  
11 have no direct knowledge of that.

12 Q Did you think that Shant was one  
13 of the bad guys in this world?

14 A I make no judgment on the man or  
15 his character.

16 Q This process of seeking other  
17 ways of obtaining the information and  
18 other ways of obtaining assets  
19 potentially, was that all as a result of  
20 what may have been a failure to cooperate  
21 on the part of Shant?

22 A Certainly, if Mr. Hovnanian had  
23 provided financial records and sought a  
24 resolution, searching elsewhere may not  
25 have been required.

1 MACGILLIVRAY

2 Q Was there any formal dialogue  
3 about resolution in this case at any  
4 point?

5 A I recall seeing in the  
6 history -- I believe I spoke with  
7 Mr. Rankin at one point. I -- you know, I  
8 really don't recall. I'm sorry.

9 Q Did you know the Hovnanian name  
10 from being in the community there?

11 A It's a famous name from the --  
12 as builders in the area.

13 Q Right.

14 And then the people always  
15 remind me that there's famous and then  
16 infamous.

17 Do you know which one -- which  
18 did you see?

19 A Really neither.

20 Q Okay.

21 So you didn't have any  
22 preconceived notions about Shant or the  
23 family or whatever else one way or the  
24 other?

25 A No.

1 MACGILLIVRAY

2 Q Okay. Okay.

3 So that certainly wasn't a  
4 factor in the process of seeking the  
5 nominee lien, then, right?

6 A What wasn't a factor?

7 Q That -- who he was. Not that  
8 that's a big deal, but you know what I'm  
9 saying, in a small community.

10 A No, sir.

11 Q Okay. Okay.

12 Was there any -- and this is  
13 relative to my client, so I think it's  
14 okay.

15 Was there any other tax history  
16 with Shant in your files that was  
17 reflected in your file? Did you have any  
18 other collection history with him other  
19 than this?

20 MR. KUNOFSKY: I'm going to  
21 object. Vague to the word "you," if  
22 that helps with the question, John.

23 MR. HANAMIRIAN: Yes, I'm just  
24 trying to stay within the parameters  
25 of the chief counsel's memo, and so

1 MACGILLIVRAY

2 I'm trying to make it specific to this  
3 case and his knowledge as opposed to  
4 generally. So if I ask about it in  
5 the office, I think that's a problem.  
6 And so I'm trying to say --

7 MR. KUNOFSKY: Right.

8 MR. HANAMIRIAN: -- did your  
9 file reflect that he had any other  
10 history of tax delinquency or  
11 collection efforts on the part of the  
12 service. That's --

13 MR. KUNOFSKY: Okay.

14 That -- for Shant, I think that  
15 question is -- all right.

16 Can you, please, reask the  
17 question? I'm sorry.

18 MR. HANAMIRIAN: I think  
19 Stephanie has to repeat it.

20 MR. KUNOFSKY: That's fine.

21 MR. HANAMIRIAN: I don't have a  
22 script.

23 (Record read.)

24 MR. KUNOFSKY: You can answer.

25 MR. HANAMIRIAN: Is that all

1 MACGILLIVRAY

2 right, Ari, or no?

3 MR. KUNOFSKY: I think that's  
4 fine. I think he can answer that.

5 MR. HANAMIRIAN: Okay.

6 A I do not recall any prior  
7 collection history with Mr. Hovnanian  
8 before this case.

9 Q Okay.

10 Did that come up?

11 There appears to be a summons  
12 issued.

13 (Whereupon, Summons  
14 Bates-stamped USAPROD-000890 through  
15 USAPROD-000937, was marked as  
16 Defendants' Exhibit 6 for  
17 identification, as of this date.)

18 A Yes, sir.

19 Q Again, in the matter of Shant  
20 Hovnanian, right?

21 A Yes, sir.

22 Q And this is addressed to whom?

23 A This is to New Jersey American  
24 Water.

25 Q Okay.

1 MACGILLIVRAY

2 And for what? For --

3 A This summons seeks information  
4 about, basically, who was paying the water  
5 bills.

6 Q And what did you want to know  
7 for?

8 A Payment of expenses associated  
9 with the property would have a bearing on  
10 our -- on my decision to request  
11 permission to file a nominee lien on the  
12 property.

13 Q In the process of doing that, I  
14 see a series of summonses directed. And  
15 it seems as if that's the objective, is to  
16 try to and discern, you know, who might be  
17 doing what, as if I would say like going  
18 through the front door as an option had  
19 already been dismissed.

20 Had that been dismissed? I  
21 mean, was there an investigation -- was  
22 there a conclusion with respect to Shant  
23 early on, and then the nominee lien was  
24 the -- was going to be the effort  
25 thereafter?

1 MACGILLIVRAY

2 Because this time frame seems  
3 relatively short. We're still in 2017  
4 when I see this summons and some of the  
5 others. So --

6 MR. KUNOFSKY: Before you  
7 answer, I'm going to instruct you that  
8 you cannot answer as to general  
9 techniques or methods of the IRS in  
10 collection, but you can answer in this  
11 case to the -- yes, you can answer for  
12 this case.

13 I don't want a waiver of -- I  
14 don't want him to be able to answer a  
15 question of this is how we do our  
16 audits, this is how we investigate,  
17 this is what we go through.

18 I'm not sure what the front door  
19 is, but when we go through the front  
20 door and when we go through whatever  
21 the side door is here. He can talk  
22 about this case. He can't talk about  
23 the general techniques because that  
24 would -- to the extent those aren't  
25 already in public documents, that

1 MACGILLIVRAY

2 discloses our techniques for examining  
3 nominees and alter egos.

4 You may answer the question with  
5 those instructions.

6 A In this case, at this juncture,  
7 a determination to request permission to  
8 file a nominee lien had not been made.

9 Q Had not been made. Okay.

10 A I -- not with any finality.

11 Q Okay.

12 And, you know, the reason I ask  
13 is because in a normal collection process,  
14 from my perspective of 32 years of seeing  
15 it, is that you're looking for sources of  
16 revenue, not necessarily sources of  
17 expense, right, to expend -- to direct  
18 your efforts.

19 And so these summonses to banks  
20 are sources of revenue. The summonses to  
21 American Water and utilities and other  
22 third-party providers are expense items,  
23 and so that -- to me, it seemed as if  
24 that's a time in which you're seeking to  
25 determine, you know, whether there's some

1 MACGILLIVRAY

2 underlying ownership issues like you're  
3 describing in the nominee context.

4 Is that a fair assessment of  
5 what was happening here?

6 A Let me --

7 Q I know it's a lot of narrative.

8 A Yes, there was a lot there, so I  
9 don't want to just --

10 Q In a normal course, you --

11 A Let me say this: What we were  
12 trying to do at this juncture was to  
13 determine who was paying the expenses  
14 associated with the property.

15 Q And for what purpose?

16 A To ascertain if there was a link  
17 between the expenses paid and Shant  
18 Hovnanian.

19 Q Okay. Okay. Thank you on that.  
20 Let me get back to this.

21 Oh, Mike, do you need a break?

22 A I'm good.

23 Q You good?

24 MR. HANAMIRIAN: Anybody?

25 A I've got my water with me and

1 MACGILLIVRAY

2 I'm good to go.

3 MR. HANAMIRIAN: Does anybody  
4 need any break or anything? Are we  
5 all right? Everybody all right?

6 MR. KUNOFSKY: I'm good. Give  
7 me one second.

8 Let me just put it on the record  
9 so that it's clear. I'm going to,  
10 now, mute my line and Cat will take  
11 over as counsel for the United States,  
12 as we previously agreed with John, due  
13 to the technical difficulties we had  
14 at the start here.

15 MR. HANAMIRIAN: Okay.

16 MS. COPPLER: I'm just  
17 connecting my speaker right now. Can  
18 everybody hear me all right?

19 MR. HANAMIRIAN: Yes.

20 MS. COPPLER: Very good. Thank  
21 you.

22 (Whereupon, Response to Summons  
23 Bates-stamped USAPROD-000567 through  
24 USAPROD-000649, was marked as  
25 Defendants' Exhibit 7 for

1 MACGILLIVRAY

2 identification, as of this date.)

3 BY MR. HANAMIRIAN:

4 Q Okay, and the next one, same  
5 thing here, Mike: summons, subpoena, New  
6 Jersey Natural Gas.

7 Same objective as far as  
8 determining whether there was a tie-in  
9 between the payment of expenses and Shant  
10 Hovnanian?

11 A This inquiry was to determine  
12 who was paying expenses to New Jersey  
13 Natural Gas associated with 520 Navesink  
14 River Road.

15 Q Okay.

16 And what did you -- there are  
17 two service addresses here, right, 520  
18 Navesink River Road and then 520B Navesink  
19 River Road.

20 Do you know why? Were there two  
21 properties or two --

22 A That was their response.

23 Q Okay.

24 Did that have any meaning to  
25 you?

1 MACGILLIVRAY

2 A I don't know for sure. I  
3 believe at that address there was a main  
4 house and a smaller house. My belief --

5 Q Go ahead. I'm sorry.

6 A My belief is that the 520 is the  
7 big house and 520B is the smaller house.

8 Q And it seems like they both  
9 had -- they had separate accounts, but  
10 both in the name of Vahak Hovnanian,  
11 right?

12 A That's what the letter  
13 indicates, yes.

14 Q And do you know who Vahak was?

15 A My understanding is that is  
16 Shant Hovnanian's father.

17 Q Okay. Okay.

18 Let me see what this 30 is.

19 (Whereupon, Affinity Federal  
20 Credit Union Records Bates-stamped  
21 USAPROD-000858 through USAPROD-000889,  
22 were marked as Defendants' Exhibit 8  
23 for identification, as of this date.)

24 BY MR. HANAMIRIAN:

25 Q Affinity Federal Credit Union;

1 MACGILLIVRAY

2 do you see this document? What is this  
3 document?

4 A This appears to be a cover  
5 letter from Affinity Federal Credit Union.  
6 I would say there were bank records  
7 attached.

8 Q And do you recall what is the  
9 relationship with Affinity -- was it  
10 Shant's relationship with Affinity Federal  
11 Credit Union?

12 A My recollection is that Hovsat  
13 maintained an account with Affinity.

14 Q Yes, and that's the second page.  
15 It's not a trick. I just -- this is the  
16 order in which they're in. Right, Hovsat.

17 And then who was Hovsat?

18 A As I recall, Hovsat had paid  
19 expenses associated with the Village Mall  
20 property.

21 Q Okay.

22 MS. COPPLER: I apologize for  
23 interrupting, but could you, please,  
24 clarify which exhibit you're asking  
25 about?

1 MACGILLIVRAY

2 MR. HANAMIRIAN: You're a little  
3 faint, Cat.

4 MS. COPPLER: I apologize.  
5 I just asked whether you could,  
6 please, clarify which exhibit you're  
7 showing currently.

8 MR. HANAMIRIAN: Yes. I was  
9 just going to ask Stephanie. You're  
10 keeping track, right?

11 THE COURT REPORTER: It's  
12 Exhibit 8, which is the document  
13 labeled MM30.

14 MR. HANAMIRIAN: You good, Cat?  
15 You all right?

16 MS. COPPLER: Yes. Thank you.

17 MR. HANAMIRIAN: Okay.

18 BY MR. HANAMIRIAN:

19 Q And so then -- okay, so Hovsat,  
20 Inc., and you're trying to -- in this  
21 instance, what were you looking for here  
22 from Affinity, to see what?

23 A We were looking for records that  
24 showed payment of expenses associated with  
25 the Village Mall property.

1 MACGILLIVRAY

2 Q Okay.

3 And there's a -- it's like an  
4 account application, depository  
5 authorization. And page 3 is the  
6 signature line, and it looks like Antranik  
7 Sarkes.

8 Do you know who that is?

9 A My understanding is that he was  
10 a former employee, I believe.

11 Q Did you talk to him or interview  
12 him in this process?

13 A I don't believe so.

14 Q And this appears as if there --  
15 an addendum to business membership  
16 application to add and/or remove  
17 authorized representatives. And it  
18 appears we have Karen Gandolfo and then,  
19 again, Antranik Sarkes, and then Arthur  
20 Havighorst.

21 Do you know who that was? Is  
22 that name familiar?

23 A I recall the name. I believe he  
24 was a former employee.

25 Q Did you interview him at all at

1 MACGILLIVRAY

2 any point or anybody -- when I say "you,"  
3 I'm talking about the collective "you,"  
4 right, each of the three revenue officers  
5 for this purpose, right?

6 A I don't recall.

7 MR. HANAMIRIAN: And, Cat, is  
8 that okay under the chief counsel's  
9 memo when we're talking about this,  
10 when we establish that there's kind of  
11 a team effort, when I'm asking the  
12 question, I'm asking about this  
13 investigation, whether he got the  
14 document or whether one of the other  
15 two got the document and he saw it?

16 MS. COPPLER: Yes, he is  
17 permitted to speak about -- if he says  
18 that he has knowledge of it, he is  
19 permitted to speak about the  
20 investigation in this matter whether  
21 it was him or any of his colleagues  
22 doing the work.

23 MR. HANAMIRIAN: Okay.

24 I just want to make sure we stay  
25 on the right -- doing the right thing.

1 MACGILLIVRAY

2 MS. COPPLER: Yes. Thank you.

3 We appreciate it.

4 MR. HANAMIRIAN: Yes, yes, yes.

5 All right.

6 BY MR. HANAMIRIAN:

7 Q Driver's license for each of  
8 them. Pretty boring stuff. Okay. It's a  
9 corporate income tax return to date.

10 Do you know if this is -- I'm  
11 showing this page here, this page 20 of  
12 MM30. There's a front page of an 1120 for  
13 Hovsat, but nothing else.

14 Do you recall seeing this?

15 A I can't specifically call --  
16 recall this return, but I can say that I  
17 did obtain returns associated with many of  
18 the business entities associated with  
19 Shant Hovnanian.

20 Q And did you talk to  
21 anybody at -- there's an identified --  
22 there's a preparer down here, paid  
23 preparer for Hovsat, so the Schonbraun  
24 McCann Group.

25 Did you speak to anybody there?

1 MACGILLIVRAY

2 A Not that I recall.

3 Q Did you speak to any preparers,  
4 tax preparers, professional --  
5 professionals?

6 Other than Mr. Rankin, who you  
7 spoke to at the outset, did you speak to  
8 any of the professionals for any of these  
9 entities that -- where you were seeking  
10 information and/or for Shant?

11 A Not that I recall.

12 Q Did you try to speak to any of  
13 those persons?

14 A Not that I recall.

15 Q Okay. Let's move on.

16 (Whereupon, Various Documents  
17 Bates-stamped USAPROD-000775 through  
18 USAPROD-000784, were marked as  
19 Defendants' Exhibit 9 for  
20 identification, as of this date.)

21 BY MR. HANAMIRIAN:

22 Q All right, now, we're looking at  
23 MM23, and there's a covering letter from  
24 the Village Mall.

25 Do you know what this document

1 MACGILLIVRAY

2 is?

3 A This is a letter from Ms. Diane  
4 Lavin of the Hair Control business at the  
5 Village Mall.

6 Q Okay.

7 And then she's writing to -- I  
8 went the wrong way here. She's writing  
9 to -- well, actually, they're writing to  
10 her, right?

11 So it seems like the  
12 landlord's --

13 A Yeah, can I see the first page  
14 again, please?

15 Q Yes. Sure.

16 A Thank you.

17 Q I thought you were done. That's  
18 why I skipped forward. I didn't realize.  
19 Go ahead.

20 A Yeah, this looks like it's a  
21 letter to her as a tenant.

22 Q And then the letter -- this is  
23 page 2 of the letter.

24 It appears it's signed by Arthur  
25 Havighorst again, right?

1 MACGILLIVRAY

2 A Yes. He's signing for the  
3 landlord.

4 Q Okay.

5 This is from 2005, right?

6 A Yeah. I -- yeah.

7 Q Okay.

8 And do you recall why that came  
9 up? Was that her -- did Ms. Lavin just  
10 produce these documents and just give up  
11 all of these files or something?

12 A No. As I recall, we requested a  
13 copy of the lease, you know, copies of  
14 checks paid to the landlord; things of  
15 that nature.

16 Q Okay. And this kind of came up,  
17 then. Okay.

18 And, here, it appears to be a  
19 check from Hair Control from April of '17,  
20 payable to whom?

21 I'm having trouble seeing.

22 Hovsat? Is that what you see?

23 A That's what it looks like.

24 Q Okay. For \$700. Okay, so she's  
25 paying directly to Hovsat.

1 MACGILLIVRAY

2 And it looks like each of these  
3 that follow -- well, this one -- can you  
4 tell what this one says?

5 Is that V. Hovnanian on this  
6 payable, on this -- this is page --

7 A That looks --

8 Q -- 8 of document MM23.

9 A That appears to be V. Hovnanian.  
10 I had to turn my glasses to read that.

11 Q Well, I'm with you. So I'm  
12 looking at, like, a Mac. I'm looking at a  
13 Mac screen that's about the size of a  
14 room, right, and I'm still having trouble.

15 So maybe that's Vahak, V.,  
16 right, and again here, and then again  
17 here?

18 Okay. Let's get out of that.

19 (Whereupon, Response to Subpoena  
20 Bates-stamped USAPROD-000938 through  
21 USAPROD-000997, was marked as  
22 Defendants' Exhibit 10 for  
23 identification, as of this date.)

24 BY MR. HANAMIRIAN:

25 Q Same thing. This is MM31.

1 MACGILLIVRAY

2 Again, addressed to Revenue Officer  
3 Troichuk.

4 Can you tell me what this  
5 document is?

6 A This appears to be a letter from  
7 FirstEnergy indicating that -- it's a  
8 cover letter providing information  
9 requested by summons.

10 Q And as we go down in the  
11 document, there appear to be -- there are  
12 a series of checks at page 2.

13 And can you see who that -- now,  
14 it's not just that we have to see it, but  
15 we have to look -- tilt our heads over to  
16 see it because it's -- right?

17 A It appears to be a check paid to  
18 JCP&L for the, I guess, electrical  
19 expenses of the Village Mall property.

20 Q Okay.

21 And this is from 2016, right?

22 A This does appear to be, yes.

23 Q So -- okay. Okay, so let's get  
24 out of that one.

25 (Whereupon, Response to Subpoena

1 MACGILLIVRAY

2 Bates-stamped USAPROD-000650 through  
3 USAPROD-000687, was marked as  
4 Defendants' Exhibit 11 for  
5 identification, as of this date.)

6 BY MR. HANAMIRIAN:

7 Q Number 35, MM35.

8 Mike, what's this document, if  
9 you know?

10 A This is a cover letter from  
11 New Jersey American Water --

12 Q Okay.

13 A -- providing documents  
14 associated with 520 Navesink River Road.

15 Q Okay. And then we go down.  
16 This is the eye test.

17 A Whoa.

18 Q The only reason I wanted to  
19 ask -- the only thing I want you to see  
20 here is that -- what I'm trying to get out  
21 of this is that the customer account  
22 identification on the left-hand corner,  
23 when you tilt your head to the left, the  
24 first line appears there's a name there.

25 Can you see the name?

1 MACGILLIVRAY

2 A I can't. I can't make it out.  
3 I'm sorry.

4 Q That's all right. That's all  
5 right. It says Vahak Hovnanian is the  
6 account holder. Okay. Let's get out of  
7 that?

8 Those inquiries that went out to  
9 the various utilities and to the tenants  
10 and to the banks, did that yield anything  
11 that affected your determination to assert  
12 a nominee lien on the trust assets, each  
13 or both of the trust assets?

14 A I believe those inquiries  
15 provided records that showed payment to  
16 the utilities through businesses owned by  
17 Shant Hovnanian.

18 Q Shant alone or Shant with others  
19 or you don't know or you know?

20 A I don't recall.

21 Q Okay.

22 But you do recall that he had an  
23 ownership interest in some of those  
24 entities, right?

25 A Yeah. I mean, we're talking

1 MACGILLIVRAY

2 about several entities at this point, so  
3 I'm a little confused.

4 Q Understood.

5 No, no, no. I'm just talking in  
6 that sense, right, we're talking about the  
7 banks and the utilities and whatever else  
8 that the payment by these other entities,  
9 Hovsat or -- okay.

10 Let's go back here a little bit  
11 in MM04.

12 (Whereupon, Deed Bates-stamped  
13 USAPROD-000300 through USAPROD-000334,  
14 were marked as Defendants' Exhibit 12  
15 for identification, as of this date.)

16 BY MR. HANAMIRIAN:

17 Q Do you recognize this document?

18 Take a second look and look.

19 Do you know what it is?

20 A It is a deed.

21 Q And what's the significance of  
22 this deed in this case?

23 A It's a deed wherein Paris  
24 Hovnanian transferred the Middletown  
25 property to the Shant S. Hovnanian Asset

1 MACGILLIVRAY

2 Trust for the sum of \$1.

3 Q Okay.

4 And what did that -- did that  
5 have any meaning to you?

6 And while you're thinking about  
7 it, it's the -- we told earlier there was  
8 520 and 520B Navesink River Road. This  
9 appears to relate just to 520 unless it's  
10 a single deed for both properties, but I  
11 don't know.

12 And Paris Hasmig Hovnanian is --  
13 do you know who that is?

14 A Yes. It's Shant Hovnanian's  
15 mother.

16 Q Mother. Okay.

17 And so this deed transfers that  
18 property to the Shant Hovnanian Asset  
19 Trust.

20 A Yes.

21 Q And the trustee appears to be  
22 Hilde Jenssen Hovnanian.

23 Do you know who that is?

24 A I believe that's Shant  
25 Hovnanian's ex-wife.

1 MACGILLIVRAY

2 Q Okay.

3 Now, in -- let's go to the next.

4 Let's go to MM5.

5 (Whereupon, Corrective Deed

6 Bates-stamped USAPROD-000335 through

7 USAPROD-000339, was marked as

8 Defendants' Exhibit 13 for

9 identification, as of this date.)

10 BY MR. HANAMIRIAN:

11 Q Do you see this document titled  
12 "Corrective Deed"?

13 A I do.

14 Q Do you know what this document  
15 represents?

16 A It represents transfer of  
17 property from the Shant S. Hovnanian Asset  
18 Trust to the Pachava Asset Trust.

19 Q And was there any significant --  
20 this is from January or December depending  
21 on what's -- it looks like it filed in  
22 December, maybe. And then the other stamp  
23 is the recorded, maybe, January 4, 2012.  
24 Who knows? But, in any event, it's 2011  
25 or early 2012.

1 MACGILLIVRAY

2 Did you attach any significance  
3 to this deed, this corrective deed?

4 A In and of itself -- in and of  
5 itself, no, other than --

6 Q Go ahead. I'm sorry.

7 A Other than it's a transfer for a  
8 dollar.

9 Q Okay.

10 And so standing in and of itself  
11 is the same to you as standing alone?  
12 Does that mean the same to you as on its  
13 own?

14 So if it was combined with  
15 something, to me, that indicates -- if it  
16 was combined with something else, it had  
17 some meaning to you; is that correct?

18 A What I'm saying is -- you're  
19 asking me about this deed.

20 Q Yes.

21 A And as I look at this deed,  
22 based on just the deed alone, there was no  
23 major significance.

24 Q Okay.

25 Yes, yes. No, you know, again,

1 MACGILLIVRAY

2 this is the lawyer thing, right, is that  
3 we hear. We hear the words and we think  
4 that they all have meaning, so that's why  
5 I'm asking you.

6 Okay. The MM07.

7 (Whereupon, Trust Agreement  
8 Amendment Bates-stamped USAPROD-000342  
9 through USAPROD-000344, was marked as  
10 Defendants' Exhibit 14 for  
11 identification, as of this date.)

12 BY MR. HANAMIRIAN:

13 Q Do you recognize this document?

14 A This document appears to be an  
15 amended trust agreement.

16 Q And do you know what the  
17 amendment was for?

18 Just so you have everything that  
19 you need, let me go to pages 2 and 3 of  
20 that same Exhibit 7, MM07, and you can see  
21 that page 2 is a signature line and page 3  
22 is what we call a jurat, or the notary  
23 witnessing stuff. So there's nothing  
24 substantive on any subsequent page just so  
25 you're getting the full picture in your

1 MACGILLIVRAY

2 answer.

3 Did this document have any  
4 meaning to you? Did you understand what  
5 this document was?

6 And when I say "was," I mean  
7 it's a part of your file, so at some point  
8 it came into you.

9 A I believe this is a document  
10 where they changed the name of the trust  
11 from the Shant Hovnanian Asset Trust to  
12 the Pachava Asset Trust.

13 Q Okay.

14 And that may be that -- would  
15 that maybe have precipitated the  
16 corrective deed?

17 MS. COPPLER: Objection. Calls  
18 for speculation.

19 MR. HANAMIRIAN: Okay.

20 MS. COPPLER: You can answer.

21 MR. HANAMIRIAN: I'll withdraw  
22 it.

23 BY MR. HANAMIRIAN:

24 Q You okay, Mike?

25 A Yeah, okay. Just shifted.

1 MACGILLIVRAY

2 Q I'm guessing that we're closer  
3 to the same ages because I'm making noise  
4 when I move around too, so -- it's a good  
5 time. It's a good age. Whatever it is,  
6 we're not saying.

7 (Whereupon, Deed Bates-stamped  
8 USAPROD-000415 through USAPROD-000418,  
9 was marked as Defendants' Exhibit 15  
10 for identification, as of this date.)  
11 BY MR. HANAMIRIAN:

12 Q MM15, this looks like another  
13 deed. This is interesting because, you  
14 know, whoever drew this up is -- well,  
15 actually, it looks like a nice form,  
16 right, up in the left-hand, but this deed  
17 is made on January 1, 2105, which is  
18 probably not right. So let's say that's  
19 2015, maybe, given the stamp.

20 Do you know what this document  
21 is?

22 A It's the deed.

23 Q And from who to who?

24 A It's representing the transfer  
25 of property from Vahak S. Hovnanian and --

1 MACGILLIVRAY

2 is it Hasmig Hovnanian a/k/a Paris to the  
3 VSHPHH Trust.

4 Q Okay. Okay.

5 Page -- there's a legal  
6 description of the property at page 2 of  
7 Exhibit 15.

8 Can you tell which property this  
9 relates to?

10 A It says at the bottom, "commonly  
11 known as Village Mall," so I would say  
12 it's the Village Mall property.

13 Q And so this is a transfer from  
14 Vahak and his wife to the VSHPHH Trust?

15 A May I see the first page again?

16 Q Of course. Yes.

17 A Yes, sir. That is correct.

18 Q Okay.

19 I have a series of trustee  
20 documents I just want to go through with  
21 you to verify the series of 1041s.

22 So MM8.

23 (Whereupon, Form 1041 for 2013

24 Bates-stamped USAPROD-000345 through

25 USAPROD-000364, was marked as

1 MACGILLIVRAY

2 Defendants' Exhibit 16 for  
3 identification, as of this date.)

4 BY MR. HANAMIRIAN:

5 Q Do you know if these were  
6 produced from you or from the system? Did  
7 somebody provide them to you in response  
8 to a summons or subpoena or whatever?

9 A This looks like it was -- I  
10 received through -- from the IRS.

11 Q Yes, internally, right?

12 A Yes. This looks like -- there's  
13 a system we have when a return is  
14 electronically filed, and that looks like  
15 the responses we get.

16 Q Based on the bold and the header  
17 up here, is that what you're saying? Yes,  
18 right?

19 A Yes, sir.

20 Q Yes. Okay. That reflects a lot  
21 of lost time in my life that I know that.

22 Okay, and this is from 2013,  
23 1041 for the Pachava Asset Trust,  
24 identifies the fiduciary as Hilde  
25 Hovnanian.

1 MACGILLIVRAY

2 Do you recall seeing this  
3 document?

4 Well, you obtained this  
5 document, so okay.

6 I know I asked you, but you  
7 hadn't spoken -- paid preparer is  
8 identified as Anthony J. Falcone, CPA.

9 You didn't speak to Mr. Falcone  
10 or anybody within his accounting group or  
11 organization, right?

12 A I don't recall speaking with  
13 Mr. Falcone.

14 Q Okay.

15 And what about Hilde Hovnanian;  
16 did you speak to her, anybody within the  
17 team speak to her?

18 In this case, obviously.

19 A In this case, Hilde Hovnanian  
20 was -- as I recall, was not in the country  
21 any longer.

22 Q Okay.

23 Did you try and get contact  
24 information for her or try and reach out  
25 for it?

1 MACGILLIVRAY

2 I mean it, obviously,  
3 respectfully, but, you know, e-mail and  
4 phone and whatever are communications.

5 Was there any effort made to  
6 talk to Hilde Hovnanian at any point, I  
7 guess?

8 A Can I speak with counsel for a  
9 moment?

10 Q Of course.

11 Do you want to go off the  
12 record?

13 A Yes.

14 (Discussion held off the record)

15 MS. COPPLER: I do have to  
16 object under 6103 to the extent you  
17 are asking why he may have contacted  
18 Hilde. But to the extent that you  
19 want to know if he did, he can go  
20 ahead and answer that.

21 MR. HANAMIRIAN: I'm sorry. You  
22 know what, Cat, can you repeat that?  
23 I just want to make sure I understand.

24 MS. COPPLER: Yes. I apologize.

25 So I object under 6103 to the

1 MACGILLIVRAY

2 extent you want to know why he was  
3 contacting Hilde. But to the extent  
4 that you just want to know whether he  
5 did contact Hilde, he can testify as  
6 to that.

7 MR. HANAMIRIAN: Yes, okay. And  
8 then my foundational components are --  
9 as I put through is that the  
10 foundational basis for, you know,  
11 hopefully, the appropriateness is that  
12 she's identified as trustee in the  
13 document that they obtained, the tax  
14 return document.

15 MS. COPPLER: Yes.

16 MR. HANAMIRIAN: So then it's  
17 like he said, I didn't speak with her.  
18 And I say, well, did you attempt to  
19 speak with her? Done.

20 MS. COPPLER: Yes.

21 MR. HANAMIRIAN: So if he  
22 answers that, then that's the end of  
23 that question.

24 MS. COPPLER: Okay. Perfect.

25 Thank you.

1 MACGILLIVRAY

2 MR. HANAMIRIAN: Okay.

3 BY MR. HANAMIRIAN:

4 Q So, Mike, did you attempt to  
5 speak to Hilde?

6 A I attempted to get her contact  
7 information --

8 Q Okay.

9 A -- from Shant, but I can't say  
10 why.

11 Q Okay. Okay. From Shant.  
12 Did you speak to Shant?

13 A I did on one occasion.

14 Q In person or on the phone or  
15 in --

16 A In person.

17 Q Okay.

18 Let me do this, and then  
19 we'll -- MM9.

20 (Whereupon, Form 1041 for 2014  
21 Bates-stamped USAPROD-000365 through  
22 USAPROD-0003386, was marked as  
23 Defendants' Exhibit 17 for  
24 identification, as of this date.)

25 Q Same thing, 1041, Pachava Asset

1 MACGILLIVRAY

2 Trust, except this time, it identifies  
3 Peter Hovnanian as the trustee.

4 Do you know who Peter Hovnanian  
5 is/was in this process?

6 A Other than that he was listed as  
7 trustee, I believe he was a relative, but  
8 I really don't know that for sure.

9 Q And then same questions, Mike,  
10 you know, did you attempt and/or speak to  
11 Peter Hovnanian?

12 A You know, and I can amplify my  
13 answer from the last question too.

14 I did send letters to all of the  
15 people listed as trustees, requesting a  
16 copy of the trust agreement.

17 Q Certified mail to --

18 A I don't recall if they were sent  
19 certified mail, but they were mailed.

20 Q What would be the address for  
21 them; the address of the trust or their  
22 individual address?

23 A I believe I sent it to the  
24 individual address that we had on record  
25 at the service.

1 MACGILLIVRAY

2 Q Okay.

3 What were the letters  
4 requesting?

5 A As I recall, a copy of the trust  
6 agreements.

7 Q Okay.

8 And then as they say, voila, the  
9 MM11, a letter from October 12, 2016,  
10 addressed to Peter Hovnanian.

11 (Whereupon, Letter Bates-stamped  
12 USAPROD-000409, was marked as  
13 Defendants' Exhibit 18 for  
14 identification, as of this date.)

15 BY MR. HANAMIRIAN:

16 Q Is that --

17 A That is the letter, sir.

18 Q There we go. All right, so  
19 that's that.

20 And then MM12.

21 (Whereupon, Letter Bates-stamped  
22 USAPROD-000410, was marked as  
23 Defendants' Exhibit 19 for  
24 identification, as of this date.)

25 BY MR. HANAMIRIAN:

1 MACGILLIVRAY

2 Q Is that the letter to Hilde?

3 A It is.

4 (Whereupon, Letters

5 Bates-stamped USAPROD-000413 through

6 USAPROD-000414, was marked as

7 Defendants' Exhibit 20 for

8 identification, as of this date.)

9 BY MR. HANAMIRIAN:

10 Q That's a letter to Shant?

11 A It is a letter to Shant.

12 Q Okay.

13 I don't have any 1041s in the

14 production where Shant is identified as

15 the trustee; did you? Did he file?

16 MS. COPPLER: Objection.

17 Q Did he file 1041s? Was he a

18 trustee at any point; do you know?

19 I'm sorry to shuffle papers.

20 I'm trying to get in order.

21 Was Shant Hovnanian a trustee of

22 either of two trusts in issue at any point

23 in time?

24 A Was there an objection I thought

25 I heard?

1 MACGILLIVRAY

2 MS. COPPLER: No, not to that  
3 question. You can go ahead and answer  
4 that question.

5 THE WITNESS: Okay.

6 A I don't recall whether this  
7 information came from a tax return or  
8 another document.

9 Q That he would have -- that he  
10 would be a trustee, right?

11 A Right.

12 Q Because you say, "Obviously, I'm  
13 writing to you in your capacity as a  
14 trustee."

15 A Yeah, so I -- yeah, I don't  
16 recall the source of that information.

17 Q Okay.

18 So when you did talk to him, how  
19 did that come about? When you did speak  
20 to Shant Hovnanian, how did that come  
21 about?

22 A I made a visit.

23 Q To?

24 A To 520 Navesink River Road.

25 Q Okay.

1 MACGILLIVRAY

2 A I cannot disclose why I made  
3 that visit.

4 Q Okay.

5 A I knocked on the door and Shant  
6 Hovnanian answered.

7 MR. HANAMIRIAN: I mean, and  
8 this is more for Cat and/or -- well,  
9 for Cat.

10 Why was Mike limited with  
11 respect to a collection visit to a  
12 taxpayer as far as why he would have  
13 gone to the home?

14 MS. COPPLER: 61 -- Section  
15 6103, I believe, is the concern. So,  
16 yes, there's not much more that either  
17 Mike or I can say about that. He's  
18 free to testify about this  
19 investigation, but that is about all  
20 he can testify to.

21 MR. HANAMIRIAN: Okay.

22 So, I mean, we have in -- and,  
23 again, respectfully, in the chief  
24 counsel memorandum, on page 2, which  
25 is numbered 2 at the top, page 2,

1 MACGILLIVRAY

2 which is P1, right, P1 from this.

3 Let's pull it up so Mike has --

4 actually, I don't have it. So --

5 MS. COPPLER: I'm sorry, but the  
6 reason is if we explain any further,  
7 we may be revealing another tax  
8 liability, so we just have to walk a  
9 thin line there because, again, we are  
10 concerned with Section 6103.

11 MR. HANAMIRIAN: No, I  
12 understand. But at the top of page 2,  
13 it says, "With respect to the  
14 deposition on oral exam, unless  
15 indicated as prohibited below, Mike  
16 may testify as to facts within his  
17 personal knowledge concerning," and  
18 then one of the bullet points is the  
19 activities conducted by the IRS to  
20 collect tax liabilities owed by Shant  
21 Hovnanian.

22 MS. COPPLER: Exactly.

23 MR. HANAMIRIAN: It doesn't say  
24 that it's the tax liabilities in this  
25 case. It says the tax liabilities

1 MACGILLIVRAY

2 owed by Shant Hovnanian.

3 MS. COPPLER: Again --

4 MR. HANAMIRIAN: Now, that may  
5 be a draft --

6 MS. COPPLER: But with more  
7 information, it may reveal a tax  
8 liability that we are not permitted to  
9 do so today.

10 MR. HANAMIRIAN: Okay.

11 But can he talk about this  
12 liability that's the subject of this  
13 case?

14 MS. COPPLER: He can.

15 MR. HANAMIRIAN: Okay.

16 All right, so then that's the  
17 question.

18 BY MR. HANAMIRIAN:

19 Q So then what was -- so let me  
20 see what I want to say.

21 When you interacted with Shant  
22 Hovnanian at the 520 Navesink Road  
23 property, what was the dialogue with  
24 respect to the tax liability in this case?

25 MR. HANAMIRIAN: Is that all

1 MACGILLIVRAY

2 right, Cat?

3 MS. COPPLER: Yes. That's

4 perfect. Thank you.

5 A Very little.

6 Q Well, what did you ask?

7 MS. COPPLER: Objection. Under  
8 6103, he may only -- again, as long as  
9 it does not involve another tax  
10 liability, he can talk about the  
11 subject of the conversation. But to  
12 the extent it falls under 6103, I'm  
13 instructing the witness not to answer.

14 MR. HANAMIRIAN: Understood.

15 BY MR. HANAMIRIAN:

16 Q What did you ask Shant Hovnanian  
17 during that interaction about this tax  
18 liability?

19 A I inquired about his -- where he  
20 lived, about his residence.

21 Q And what did he say, Mike?

22 A He said that he -- he denied  
23 residing at the 520 Navesink River Road  
24 address, and he indicated that he resided  
25 at the Village Mall address.

1 MACGILLIVRAY

2 Q Okay.

3 A He also told me that his minor  
4 children resided at 520 Navesink River  
5 Road.

6 Q Oh, so his children lived at the  
7 house, but he didn't?

8 A That's what he told me.

9 Q Okay.

10 A And that his other son, Vahak, I  
11 believe, resided there as well.

12 Q Okay.

13 A I think.

14 Q Did you say anything in response  
15 to that?

16 A I recall that -- from the  
17 history refreshing my memory, that I asked  
18 him -- well, I think I inquired about  
19 whether there were living facilities at  
20 Village Mall.

21 Q And did he respond?

22 A I don't recall his response to  
23 that. And then I advised him to speak  
24 with his power of attorney about providing  
25 the financial information to us that we

1 MACGILLIVRAY

2 had requested.

3 Q And for the purposes of the  
4 liability underlying this case --

5 A Yes.

6 Q -- was that the end of the  
7 dialogue between the two of you?

8 A That's all I recall, yeah.

9 Q Okay. Okay.

10 Just a few more documents if we  
11 can.

12 (Whereupon, Documents  
13 Bates-stamped USAPROD-000411 through  
14 USAPROD-000412, were marked as  
15 Defendants' Exhibit 21 for  
16 identification, as of this date.)

17 BY MR. HANAMIRIAN:

18 Q MM13.

19 Page 1 of MM13; what is this?

20 A Yes. That is a -- the Internal  
21 Revenue Service has a computer system that  
22 contained --

23 Q Mike, you know what, let me show  
24 you page 2 before you answer just so that  
25 you have the whole document.

1 MACGILLIVRAY

2 A Okay.

3 Q If you were sitting here, you  
4 would see both, so let me show you 2.

5 A Okay.

6 Q And then you tell me you're  
7 ready, and I'll go back if you want.

8 A Please, go back.

9 Q Okay. Go ahead, then.

10 A Okay. The Internal Revenue  
11 Service has a computer system called IDRS.  
12 The IDRS computer system contains various  
13 types of taxpayer data.

14 Q Be careful. Just be careful.  
15 It has to relate only to this notice in  
16 this case.

17 A Understood, sir, and I  
18 appreciate it.

19 Q Okay.

20 A I'm just trying to explain to  
21 you what this is.

22 Q Okay.

23 A This is a -- this is a what we  
24 call an INOLE.

25 Q Okay.

1 MACGILLIVRAY

2 A And this INOLE is -- it's for --  
3 it provides the Employer Identification  
4 Number of the VSHPHH Trust and it  
5 indicates that Shant S. Hovnanian is the  
6 trustee.

7 Q Okay.

8 I see the INOLE in the left-hand  
9 corner up there.

10 A Yes.

11 Q Is that one of the famous  
12 government acronyms?

13 A It is. The set -- if you can  
14 see there, it shows "filing requirements."  
15 That's indicating that there is a 1041  
16 filing requirement.

17 Now, the page 2 is not really a  
18 page 2. It's a different report. If you  
19 could, pull it up, please.

20 Q Yes, I'm trying to. I'm  
21 clicking and I'm getting --

22 A It doesn't want to?

23 Q Yes, I got it.

24 A That's what we call a BMFOLI.

25 Q Okay.

1 MACGILLIVRAY

2 A This would reflect any returns  
3 filed had any been filed.

4 Q Okay.

5 And so that maybe goes back to  
6 my prior question about whether, when as a  
7 trustee, he filed returns or not.

8 A This is likely the source of my  
9 understanding, that Shant either was or  
10 had been a trustee of that trust.

11 Q Okay. Okay.

12 And this would be requested for  
13 what purpose in this case?

14 A In this case, to determine the  
15 IRS records associated with that trust,  
16 such as I explained filing history, EIN  
17 number, and the information that you see  
18 in this exhibit.

19 Q Okay. All right.

20 And then this is the last of the  
21 pile of the loose exhibits.

22 MR. HANAMIRIAN: How is everyone  
23 doing? Do we need a break? Do we  
24 need -- all right?

25 THE WITNESS: I'm good.

1 MACGILLIVRAY

2 MR. HANAMIRIAN: We have a  
3 little ways to go.

4 BY MR. HANAMIRIAN:

5 Q All right, so then it's MM1.

6 MR. HANAMIRIAN: Why can't I  
7 download this file? It says I can't  
8 download this file. Is it protected?  
9 It wouldn't be protected in the Box,  
10 right?

11 All right, so let me go back and  
12 see if the other -- if 2 comes.

13 Yes, same.

14 You guys, you know what, just  
15 give us -- can you give us five  
16 minutes? We just want to see what  
17 this technical glitch is on the  
18 downloads.

19 (Thereupon, a recess was taken,  
20 and then the proceedings continued as  
21 follows:)

22 BY MR. HANAMIRIAN:

23 Q This is MM001, Mr. Kunofsky was  
24 kind enough to provide for you, Mike.

25 (Whereupon, Notice of Federal

1 MACGILLIVRAY

2 Tax Lien Bates-stamped USAPROD-000327,  
3 was marked as Defendants' Exhibit 22  
4 for identification, as of this date.)

5 BY MR. HANAMIRIAN:

6 Q Can you see the document?

7 A I can.

8 Q What is this document?

9 A This is a Notice of Federal Tax  
10 Lien filed --

11 Q Go ahead.

12 A -- filed for the 2002 Form 1040,  
13 liability owed by Shant Hovnanian. And it  
14 was recorded, it looks like -- I think  
15 this is Monmouth County, New Jersey. It's  
16 hard to read upside-down. But it was  
17 recorded it looks like August 4, 2014.

18 Q Okay.

19 Now, these tax liabilities -- it  
20 says they're 1040 liabilities, which is  
21 individual income tax for periods -- for  
22 the period ended in each instance  
23 12/31/02, but there are three separate  
24 listed liabilities.

25 Why is that?

1 MACGILLIVRAY

2 Like everything else seems to be  
3 the same except the date of assessment,  
4 but it's all for the same tax year or tax  
5 return.

6 A The date of assessment is the  
7 key.

8 Q Okay.

9 A So this lien is reflecting that  
10 there were three assessments made in the  
11 2002 tax year.

12 Q And is there any significance to  
13 the fact that there were -- the  
14 assessments are five years apart, or is  
15 that just coincidence?

16 A It's -- whatever the date is, it  
17 is, or was.

18 As I look at it, I believe the  
19 only two assessment dates that are germane  
20 are the second of the last two.

21 MR. KUNOFSKY: Stop. Everybody,  
22 stop. I think we just lost John.

23 John, are you there? Okay.

24 MR. HANAMIRIAN: I hear you  
25 again. Here we go. I'm sorry.

1 MACGILLIVRAY

2 I froze out at the -- I had  
3 asked Mike if there was any  
4 significance to the fact that the  
5 dates of assessment were five years  
6 apart.

7 A No significance to the five  
8 years.

9 What I was saying was, as I look  
10 at the document -- and, again, I know I  
11 have to stay within this case, but what  
12 happens -- how can I explain this?

13 There are occasions when there  
14 are multiple assessments made within a  
15 given tax year. When that occurs, the  
16 lien reflects each assessment date.

17 Q Okay.

18 A And that's what's on this lien  
19 here.

20 Q Now, are these liens the -- are  
21 the tax liability -- well, let's go  
22 through.

23 That's 1. All right.

24 MR. HANAMIRIAN: Can we go to  
25 number 2, MM2? Do you have it Ari, or

1 MACGILLIVRAY

2 no? I can probably try again. My  
3 thing was --

4 (Whereupon, Notice of Federal  
5 Tax Lien Bates-stamped USAPROD-000328,  
6 was marked as Defendants' Exhibit 23  
7 for identification, as of this date.)

8 MR. KUNOFSKY: No. It's fine.  
9 I got it.

10 MR. HANAMIRIAN: Probably a  
11 factor of --

12 MR. KUNOFSKY: No, computers are  
13 computers. It's fine.

14 MR. HANAMIRIAN: There you go.  
15 Okay.

16 BY MR. HANAMIRIAN:

17 Q So MM2.

18 A This one's much smaller.

19 Q Yes. Yes.

20 And these relate to tax period  
21 2004 and 2007, right? And, again, that  
22 multiple assessment, same return that you  
23 described, right?

24 A Yes, sir.

25 Q And then MM1, we did. MM2.

1 MACGILLIVRAY

2 MM3 is --

3 (Whereupon, Notice of Federal  
4 Tax Lien Bates-stamped USAPROD-000329,  
5 was marked as Defendants' Exhibit 24  
6 for identification, as of this date.)

7 MR. KUNOFSKY: Can you guys see  
8 MM3 right now?

9 MR. HANAMIRIAN: Yes.

10 BY MR. HANAMIRIAN:

11 Q So can you see that, Mike?

12 A That's the federal tax lien for  
13 the 2003 tax period.

14 Q Okay.

15 And so, now, with respect to  
16 MM1, 2, and 3, the liability -- the tax  
17 liabilities that are identified therein,  
18 those are the tax liabilities that  
19 underlie this case, this claim?

20 A Yes.

21 Q Okay.

22 And then there are a series --

23 MR. HANAMIRIAN: I don't want to  
24 keep bothering you, Ari, but I have no  
25 choice.

1 MACGILLIVRAY

2 MR. KUNOFSKY: John, if you want  
3 to give me a sequence of exhibits, I  
4 can open them all at once, and then if  
5 you're going through 4, 5, 6, we can  
6 just go faster that way.

7 MR. HANAMIRIAN: Yup. 26, 27,  
8 and 28.

9 MR. KUNOFSKY: And I will get to  
10 26. I'm going to zoom out a little.

11 MR. HANAMIRIAN: Good. Okay.

12 (Whereupon, Documents  
13 Bates-stamped USAPROD-000340 through  
14 USAPROD-000341, were marked as  
15 Defendants' Exhibit 25 for  
16 identification, as of this date.)

17 BY MR. HANAMIRIAN:

18 Q This is 26, MM26.

19 Mike, do you recognize this  
20 document?

21 A Yes.

22 Q What is this document?

23 A That is the nominee lien  
24 recorded. It's captioned "The Shant  
25 Hovnanian Asset Trust as nominee of Shant

1 MACGILLIVRAY

2 Hovnanian."

3 Q Okay.

4 And then in MM27, which is the  
5 next button --

6 (Whereupon, Notice of Federal  
7 Tax Lien Bates-stamped USAPROD-001038  
8 through USAPROD-001039, was marked as  
9 Defendants' Exhibit 26 for  
10 identification, as of this date.)

11 BY MR. HANAMIRIAN:

12 Q What's this document?

13 A A nominee lien.

14 Q For -- is it a different  
15 document than 26?

16 A Yes. This one is captioned  
17 "Pachava Asset Trust as nominee of Shant  
18 Hovnanian."

19 Q Okay.

20 And then 28.

21 (Whereupon, Notice of Federal  
22 Tax Lien Bates-stamped USAPROD-001042  
23 through USAPROD-001043, was marked as  
24 Defendants' Exhibit 27 for  
25 identification, as of this date.)

1 MACGILLIVRAY

2 BY MR. HANAMIRIAN:

3 Q Okay, what's this document,  
4 Mike?

5 A Nominee lien captioned "The  
6 VSH" -- I can't read -- "Trust as nominee  
7 of Shant Hovnanian."

8 Q Okay.

9 And so --

10 A VSHPHH Trust.

11 Q Okay.

12 So questioning as between MM1,  
13 2, and 3, which are the Notices of Federal  
14 Tax Lien relative to Shant, Shant, Shant,  
15 and then these nominee liens, what is the  
16 difference between the two in this case?

17 MS. COPPLER: Objection. Calls  
18 for a legal conclusion.

19 But you can answer.

20 A The original liens you showed me  
21 were captioned "Shant Hovnanian,"  
22 reflecting that he owed the liabilities  
23 reflected on the lien.

24 The nominee liens that you've  
25 shown me reflect the same liabilities, but

1 MACGILLIVRAY

2 indicate that these entities are nominees  
3 of Shant Hovnanian.

4 Q And the documents speak for  
5 themselves, so I'm not testifying. I just  
6 want to point it out for ease.

7 The Shant Hovnanian Notices of  
8 Federal Tax Lien in the first instance,  
9 which is MM1, 2, and 3, are each filed in  
10 2014, 2013, and 2013. So -- and then  
11 these nominee liens are filed in 2018 in  
12 each instance.

13 What happened between the filing  
14 of the original Notices of Federal Tax  
15 Lien and then the Notice of Federal Tax  
16 Lien with the nominee component?

17 A Records were gathered. A report  
18 was written to the Office of Chief  
19 Counsel, requesting permission to record  
20 the nominee liens.

21 Q Now, what we have in MM47, a  
22 transcript, the ICS History Transcript,  
23 which is MM47.

24 MR. HANAMIRIAN: You know what,  
25 let me just try again because I want

1 MACGILLIVRAY

2 to kind of scroll through that if I  
3 can.

4 MR. KUNOFSKY: Okay.

5 MR. HANAMIRIAN: Let me see if I  
6 can get that going somehow.

7 I can't do it while you're doing  
8 it. Okay. So you're doing it. Okay.  
9 Let me see if I can pull that up.

10 MR. KUNOFSKY: I'm going to  
11 close all these tabs, John, and --

12 MR. HANAMIRIAN: Yes, that's  
13 fine. We're done with that. Thank  
14 you.

15 MR. KUNOFSKY: Yes. And shut  
16 down my sharing.

17 MR. HANAMIRIAN: Yes. Thank  
18 you. Thank you. Let me see if I can  
19 get this one open.

20 THE WITNESS: May I have a quick  
21 bathroom break?

22 MR. HANAMIRIAN: Oh, yes, sure.  
23 That's fine.

24 Let's take five minutes for  
25 everyone and go off the record if we

1 MACGILLIVRAY

2 can.

3 (Thereupon, a recess was taken,  
4 and then the proceedings continued as  
5 follows:)

6 BY MR. HANAMIRIAN:

7 Q Mike, I'm pulling up an exhibit,  
8 which is identified as MM47.

9 (Whereupon, ICS History  
10 Transcript Bates-stamped  
11 USAPROD-000001 through USAPROD-000326,  
12 was marked as Defendants' Exhibit 28  
13 for identification, as of this date.)

14 BY MR. HANAMIRIAN:

15 Q Do you recognize this document?

16 A Yes. It looks like the ICS  
17 history record.

18 Q What does that mean?

19 A The ICS history -- ICS is a  
20 computer system used by field collection  
21 at IRS to record pertinent events in a --  
22 that occur when we attempt to collect a  
23 tax liability.

24 Q Okay.

25 And so is this kind of a bit of

1 MACGILLIVRAY

2 a roadmap of your process in this case?

3 A It would reflect pertinent  
4 events that occurred during the case  
5 investigation.

6 Q Okay.

7 And -- okay. And going through  
8 here, I mean, it's a lot of pages. It's  
9 literally hundreds of pages. But the --  
10 let's go through a few of them. We'll go  
11 down to -- I'll scroll down to -- we're  
12 still in Exhibit 47 and we'll be there.  
13 So each reference to a page is still  
14 within -- it's going to be within 47.

15 So page 2, page 3, we have a --  
16 there's a line item here.

17 Can you see this, Mike? Can you  
18 see it clearly?

19 A I can. It's a little small, but  
20 I think I can manage.

21 Q It says "Shant" -- there's -- at  
22 paragraph 2, and then there's the sixth  
23 paragraph, if you can call them that, it  
24 starts out and says, "Shant Hovnanian's  
25 ex-wife is Nina Tower."

1 MACGILLIVRAY

2 Who is Nina Tower; do you know?

3 A ICS history indicates that it is  
4 Shant Hovnanian's ex-wife. I believe her  
5 to be his first wife.

6 Q Okay.

7 Was she involved in this case at  
8 all at any level for this tax liability in  
9 this case?

10 A Not to my recollection.

11 Q Go ahead.

12 A No.

13 Q Did you speak to her in the  
14 context of this case?

15 A I don't recall speaking with  
16 her.

17 Q Okay.  
18 Any communication?

19 A Not that I recall.

20 Q Okay.

21 Moving down to -- and these  
22 portions that are identified as  
23 attorney-client are redacted for just that  
24 reason, correct?

25 MS. COPPLER: Objection.

1 MACGILLIVRAY

2 Attorney-client privilege.

3 MR. HANAMIRIAN: Yes, okay.

4 Okay.

5 I just want to make sure that  
6 this is okay because we received the  
7 following response from Laurie Nasky  
8 in the Office of Chief Counsel.

9 Is that okay to be in there, or  
10 should that have been redacted as  
11 well; do you know?

12 MS. COPPLER: If it wasn't  
13 redacted, we can -- I mean, we can  
14 discuss it. I mean, I don't think we  
15 should probably get into the propriety  
16 of prior redactions unless, you know,  
17 you want to ask about them.

18 MR. HANAMIRIAN: Yes, I mean,  
19 Cat, in my defense world, the identity  
20 of counsel, the existence of counsel  
21 in and of itself can be privileged,  
22 and so what I don't want because I  
23 obviously am concerned about the  
24 purity of the process for a number of  
25 reasons, I don't want evidence

1 MACGILLIVRAY

2 anywhere in the process that's  
3 problematic, right?

4 MS. COPPLER: Okay. And I  
5 appreciate that. Thank you for your  
6 concern.

7 MR. HANAMIRIAN: Yes, okay.

8 And then you can politely tell  
9 me that we can take care of ourselves  
10 and --

11 MS. COPPLER: Thank you.

12 MR. HANAMIRIAN: All right.

13 BY MR. HANAMIRIAN:

14 Q On page 5 at the bottom, there's  
15 an action date entry from July 8, 2013.  
16 And, rest assured, I'm not going to do  
17 this with each action date so you can  
18 keep -- we can keep the remains of our  
19 hair.

20 But it says that you were  
21 advised to -- "Counsel advised RO to  
22 contact Coleman Renty, the IRS employee  
23 who handled the TEFRA closing in this  
24 matter."

25 Are you allowed to speak about

1 MACGILLIVRAY

2 any contact or communication with Coleman  
3 Renty?

4 I ask again because it refers to  
5 counsel having suggested the contact.

6 MS. COPPLER: To the extent that  
7 he spoke with him in investigating the  
8 tax liabilities that are at issue in  
9 this lawsuit, yes, he can speak to --  
10 he can testify about that.

11 MR. HANAMIRIAN: Okay.

12 BY MR. HANAMIRIAN:

13 Q Mike?

14 A Yes, sir.

15 Q What do you think?

16 A If you recall when -- earlier,  
17 when we first started, when you asked what  
18 we first did, and I indicated that there  
19 was a litigation hold on one of the  
20 periods.

21 Q Yes.

22 A That is what this is referring  
23 to. The -- do you see where it says  
24 "Status 72"?

25 Q Yes.

1 MACGILLIVRAY

2 A Internally, that means there was  
3 a litigation hold. And I was contacting  
4 this gentleman to see if it was -- it  
5 should be reversed and the case -- then  
6 the period assigned to me.

7 Q Okay.

8 And the acronym TURFRA; is that  
9 a mistake? Should it be TEFRA?

10 A Yes. That should be TEFRA.

11 Q And so that's somebody from --  
12 looking at tax laws.

13 So Coleman Renty is somebody  
14 within partnerships or limited  
15 partnerships within the service, yes?

16 A Yeah, I really don't know.

17 Q Okay.

18 A I was just advised he was the  
19 guy to -- at that point, he was the guy to  
20 talk to.

21 Q And did you?

22 A This communication that's  
23 recorded in the history was my contact  
24 with him, as I recall.

25 Q Okay. Okay.

1 MACGILLIVRAY

2 And then as we keep scrolling  
3 through, we'll go down further, page 10.

4 The page 9 here, these  
5 communications between you and Read  
6 Rankin, William Read Rankin, is  
7 identified.

8 Was Mr. Rankin cooperative with  
9 you in this context? And I say that --  
10 let me frame that a little bit.

11 You know, we have an obligation  
12 as counsel in the context of dialogue with  
13 the Internal Revenue Service under various  
14 obligations, Circular 230 and whatever  
15 else, you know, for truthfulness and  
16 veracity and cooperation and whatever  
17 else.

18 Was Mr. Rankin appropriate in  
19 his dialogue with you in your experience?  
20 And particularly in the context of this  
21 case, was his responsiveness appropriate?

22 A I'll say this --

23 MS. COPPLER: Objection. I  
24 think that calls for a legal  
25 conclusion.

1 MACGILLIVRAY

2 But you can go ahead and answer.

3 MR. HANAMIRIAN: He can answer?

4 Okay. Thank you.

5 A I was going to say Mr. Rankin  
6 was -- as I recall, he was polite. He  
7 indicated in this contact, as I recall,  
8 that, yes, he still -- he wanted to -- he  
9 needed to contact his client to ascertain  
10 if he will represent him in the collection  
11 matter, but he also indicated that he may  
12 advise his client not to provide the  
13 information that we would request for  
14 financial information.

15 Q Okay.

16 Well, what did you think of  
17 that?

18 A I -- it was somewhat unusual,  
19 but not unprecedented.

20 Q Okay. Okay.

21 And only with respect to the  
22 financial information, right? I mean, he  
23 didn't -- did he say that he would advise  
24 his client not to communicate at all?

25 A No. He -- limiting my response

1 MACGILLIVRAY

2 to what's recorded here, he needed to  
3 contact his client to see if he would  
4 represent him, but he also advised that he  
5 may advise his client not to provide  
6 information to the service.

7 Q Okay.

8 And, I mean -- and you're a  
9 little bit -- in this context, you're a  
10 little bit hamstrung, right, because until  
11 he says he's the power, he really can't  
12 have a conversation about the taxpayer; it  
13 has to be pretty broad brush, right?

14 A Well, he had a power of attorney  
15 active on the system.

16 Q Yes.

17 A So from our perspective, he was  
18 the power of attorney. But he provided  
19 that information to me, so I felt it was  
20 appropriate to give him a deadline to give  
21 him a little time to speak with his client  
22 and get back to me.

23 Q Okay.

24 And then he is -- on page 10, on  
25 the Friday, March 30, 2018, 12:52 p.m.

1 MACGILLIVRAY

2 entry that's continued on, is this  
3 communication, where it starts with "We  
4 briefly discussed the OIC provisions in  
5 view of the large of the large balance  
6 due," is this part of the same  
7 conversation?

8 A It is, yes.

9 Q And so at that point, Mr. Rankin  
10 provided you with information the taxpayer  
11 was CEO of a company named Speedus and  
12 straight on down the line through the rest  
13 of your narrative?

14 A Yes. He was providing me with  
15 the background of how we got here.

16 Q When he says "the taxpayer's  
17 attorney was named Valdez," which is about  
18 three quarters of the way down the page,  
19 and that Valdez left the country over the  
20 issue, was that -- did you understand that  
21 to mean the issue underlying, the tax  
22 liability in issue in this case?

23 A My understanding was that -- and  
24 this was Mr. Rankin providing me with this  
25 information.

1 MACGILLIVRAY

2 Q Understood.

3 A My understanding was that  
4 Mr. Valdez had given Mr. Hovnanian some  
5 advice and it turned out to be -- it  
6 resulted in this audit. And that's my  
7 understanding.

8 Q Okay. Okay.

9 Then he's talking about Speedus  
10 had litigation with WIC Corporation that  
11 resulted in a \$2.8 million settlement.

12 Do you know who WIC Corporation  
13 is now, or at that time did you know?

14 A I don't believe so, no.

15 Q Did you ever look into that  
16 statement?

17 A Not that I recall.

18 Q Okay.

19 On page 22 of this Exhibit 47  
20 still -- it's going to take some -- if you  
21 want to turn away for a second, some  
22 scrolling will make you dizzy.

23 It's easier to go down the left  
24 side, isn't it?

25 MR. KUNOFSKY: Hey, Mike, put

1 MACGILLIVRAY

2 your mouse at the bottom of the screen  
3 for a second.

4 MR. HANAMIRIAN: Got it. Got  
5 it. Got it. Thank you, though.

6 BY MR. HANAMIRIAN:

7 Q Page 22. All right.

8 So there are series of entities  
9 here and some information.

10 Can you tell me about the  
11 information on this page and what it  
12 represents?

13 A This is research done on various  
14 entities associated with Mr. Hovnanian,  
15 business entities.

16 Q Okay.

17 And then the VS Hovnanian Group;  
18 that's the first time we're seeing that  
19 one.

20 Do you know what that entity was  
21 or is or --

22 A Other than that it was a  
23 business associated with Mr. Hovnanian --

24 Q Were a lot of interrelated  
25 entities that -- you described that

1 MACGILLIVRAY

2 earlier.

3 There were a lot of these common  
4 ownership or interrelated -- otherwise  
5 interrelated entities in this case?

6 A Yes. There were several.

7 Q You identify here as the owners  
8 of the VS Hovnanian Group, Inc. -- you  
9 identify Nina Hovnanian as potentially  
10 ex-wife because, obviously, that's before  
11 you knew it was -- I guess you're  
12 referring to Shant and identifying in the  
13 parentheticals who's who. He's the TP.

14 Is that before, obviously, you  
15 knew that's his sister, Nina?

16 A Can you go back to that?

17 Q Yes, sure.

18 The paragraph where it says,  
19 "The owners were: Vahak, Paris, Shant,  
20 Nina."

21 A As I sit here, I don't know if  
22 that Nina is his ex-wife or his sister. I  
23 don't recall because I -- there's no other  
24 information there, so I can't say.

25 If you're -- are you telling me

1 MACGILLIVRAY

2 it's his sister?

3 Q Yes, yes, yes.

4 A Okay.

5 Q That's all right. I mean, I'm  
6 not -- yes.

7 A Yes.

8 Q I'm just curious on that one.

9 If we go to page 28, towards the  
10 bottom, the action date of 11/26/13, the  
11 systemic history, forms/correspondence,  
12 beginning Notice of Levy. 668A requested  
13 for -- what's 668A?

14 A That's a Notice of Levy.

15 Q Just Notice of Levy? That's not  
16 the nominee levy stuff that we were  
17 talking about before, is it?

18 A No.

19 Q Okay.

20 A Those are just regular levies.

21 Q Okay.

22 On page 58, it looks like you're  
23 identifying -- or you're talking about  
24 some of the trusts and some sequencing  
25 here.

1 MACGILLIVRAY

2 Can you tell me what's happening  
3 here?

4 A Can you go -- can I see the  
5 previous page?

6 Q Of course.

7 Do you want me to go up further?

8 A Yeah, go up further.

9 Q Okay.

10 A Because that's a very long  
11 history. I did not write that history.

12 Q Okay. Go ahead.

13 A You can see "create ID," and  
14 there's a number.

15 Q Yes.

16 A The history entries by me was  
17 number 3529. As I recall, that history  
18 was written by the Mr. Rutledge that I  
19 spoke of earlier.

20 Q Okay.

21 A I just wanted to make that  
22 clear.

23 Q No, no, I appreciate it.

24 But the information that's  
25 reflected on the document, are you

1 MACGILLIVRAY

2 familiar with the information from this  
3 case?

4 A I believe so. If you show me  
5 which page you'd like me to --

6 Q Well, I'll go to 57, which is  
7 what's up there now.

8 A Okay.

9 Q And that document reflects what  
10 to you?

11 A It is just basic research of --

12 Q It seems to be consistent with  
13 some of the document analysis we did  
14 earlier.

15 A Yeah, it is. It's research  
16 on -- there's some documentation of  
17 business entities, and then it segues into  
18 some basic real property information.

19 Q Okay.

20 Now -- and then the next page, I  
21 think more of the same. This is where we  
22 started out with the trusts and --

23 A Okay.

24 Q These other trusts -- there's  
25 the Shant Hovnanian Asset Trust, which

1                   MACGILLIVRAY  
2     we're familiar with in this case; the  
3     Pachava Asset Trust, which we're familiar  
4     with. And then we have three, four, and  
5     five here: The Vahak Hovnanian Asset  
6     Trust, Paris Hovnanian Asset Trust, and  
7     the Charentz Hovnanian Asset Trust.

8                   Are you familiar with any of  
9     those, those latter three documents,  
10    three, four, five?

11           A       I'm not.

12           Q       Did any of that documentation  
13    come into play in the context of asserting  
14    the nominee lien from the trust that you  
15    did?

16           A       I don't believe so.

17           Q       Okay.

18                   Is there -- you know, as I said,  
19    your history transcript goes -- is  
20    obviously quite extensive. That's the  
21    first 200 pages.

22                   Is there -- I'm going through  
23    and it's -- and, again, it's very  
24    repetitive of what you identified in the  
25    course of the document, so I don't want to

1 MACGILLIVRAY

2 go through each page, not because I don't  
3 want to, but because I don't think it's  
4 necessary. But I actually need you to  
5 tell me that.

6 So is there anything that came  
7 into your decision-making process that's  
8 not protected by an attorney-client or  
9 other confidentiality obligation that we  
10 haven't spoken about today?

11 So were there other factors in  
12 determining to attempt to impose a nominee  
13 lien on the trusts the subject of this  
14 litigation that we haven't spoken about or  
15 that doesn't exist in the documents that  
16 we have?

17 MS. COPPLER: I'm going to  
18 object to that. I think it could  
19 potentially get into attorney-client,  
20 as you mentioned, and also work  
21 product. But Mr. MacGillivray is free  
22 to testify about anything that he  
23 discovered in the course of his  
24 investigation.

25 MR. HANAMIRIAN: Yes. And I

1                   MACGILLIVRAY  
2           apologize for the fractured question.  
3           I'm just trying to determine that I  
4           understand the entirety of the  
5           basis -- the factual basis, not the  
6           legal analysis, but the factual  
7           basis -- underlying the nominee lien.

8                   MS. COPPLER: Yes, of course.  
9           Absolutely.

10                  MR. HANAMIRIAN: And that's all  
11           I'm trying to --

12                  MS. COPPLER: Thank you for  
13           clarifying.

14                  MR. HANAMIRIAN: That's all I'm  
15           trying to get, is that do we have all  
16           the facts that you had? How's that?

17                   Is that okay, Cat?

18                  MS. COPPLER: Yes. Go ahead.  
19           He can answer that.

20                  MR. HANAMIRIAN: Okay.

21           A        I believe we've covered most of  
22           the pertinent facts. We've been here for  
23           a couple hours, so I can't really recall  
24           everything we discussed, but I think we're  
25           in the ballpark.

1 MACGILLIVRAY

2 Q Okay.

3 There's nothing in your head  
4 where you would say, oh, Hanamirian didn't  
5 catch that?

6 A Nothing comes to mind, sir.

7 Q Okay. Thank you. All right.

8 Ms. Gandolfo, she had a  
9 deposition, you may or may not know, a  
10 week or so ago, and she complained about  
11 you.

12 Now, meeting you, it's kind of  
13 hard to believe, but we have to believe  
14 because she's under oath. But she said  
15 that you had visited the business premises  
16 and that she -- and these are her words,  
17 but that, you know, she -- and it's a  
18 paraphrase of her words -- but that she  
19 found you imposing.

20 Would you disagree with that  
21 characterization at any level of you?

22 A While I can't speak to her  
23 perception, at no time was I attempting to  
24 be imposing.

25 Q What were your interactions with

1 MACGILLIVRAY

2 Karen Gandolfo -- wait -- obviously, with  
3 respect to the liabilities with Shant  
4 Hovnanian that underlie this litigation?

5 A After this litigation was filed,  
6 DOJ Attorney Ari Kunofsky asked me to  
7 attempt to serve the notice and complaint  
8 on Shant Hovnanian. My interactions with  
9 Karen Gandolfo occurred in my attempts to  
10 do so.

11 Q Okay. Okay.

12 So what happened? In your  
13 attempt to serve the notice and complaint,  
14 what happened? What did you do? Did  
15 you --

16 A I attempted to serve the notice  
17 and complaint, as I recall, at two  
18 locations: the house at 520 Navesink River  
19 Road and the Village Mall address in  
20 Howell.

21 Q And this was service of process  
22 on Shant or on the trusts?

23 A On -- as I recall, on Shant.

24 Q Okay.

25 A There may have been -- as I

1 MACGILLIVRAY

2 recall, on Shant.

3 Q Okay.

4 And so then what happened? What  
5 did you do? Can you take me through it?

6 A There were several attempts.

7 I'm not sure I understand --

8 Q Well, you drove to somewhere,  
9 right? You went somewhere to serve  
10 the notice and the complaint for Shant?

11 A Yeah. I went to 520, the house  
12 at 520.

13 Q Okay.

14 And then what --

15 A Well, on several attempts.

16 Q Okay.

17 A There was times that no one was  
18 there.

19 Q Okay.

20 And then, ultimately, was  
21 anybody there to accept service?

22 A There were two occasions I  
23 recall where Karen Gandolfo was at the 520  
24 address.

25 Q At the house?

1 MACGILLIVRAY

2 A At the house.

3 Q Okay.

4 A On one occasion, I knocked on  
5 the door. She wouldn't open it. On  
6 another occasion --

7 Q Did she say anything to you,  
8 Mike?

9 A I really don't recall the  
10 substance of what she said.

11 Q Okay.

12 When you knock on the door, do  
13 you identify yourself? Were you alone?

14 A I believe Rebecca Troichuk was  
15 with me.

16 Q Okay.

17 So you knock on the door and you  
18 say, IRS, whatever, blah, blah, blah, or  
19 no? Was that too --

20 A I don't recall exactly what was  
21 said. I was attempting to serve the  
22 summons and complaint.

23 Q Okay. Okay.

24 And then what was the second  
25 attempt?

1 MACGILLIVRAY

2 A There was another occasion at  
3 that address, where I had gone there in  
4 the morning and Karen Gandolfo drove up  
5 and she went in the house.

6 Q Okay.

7 And then what? She was in the  
8 house, and then you went back up to the  
9 door or --

10 A I don't recall if I did.

11 Q Okay.

12 A I may have knocked on the door.  
13 I really don't recall. I may have left  
14 the summons attached to the door --

15 Q Okay.

16 A -- on both occasions, but I  
17 don't recall.

18 Q Now, this is the summons in the  
19 litigation or a summons-summons?

20 A No. The summons and complaint  
21 in this litigation.

22 Q Okay.

23 And did you also go and try and  
24 serve process on Shant Hovnanian at any  
25 other -- or this is such terrible

1 MACGILLIVRAY

2 grammatical -- at any other location?

3 A At the Village Mall address;  
4 yes, sir.

5 Q And what happened there?

6 A I knocked on the door. There  
7 was no answer. I went into -- I was with  
8 Rebecca Troichuk again. I went into the  
9 accounting office, and they gave me access  
10 to the common area of the building through  
11 their door. I went up -- we went  
12 upstairs. There was an open office door,  
13 where we found Karen Gandolfo inside at a  
14 desk.

15 Q So you went through the tenant's  
16 office, the tenant accounting firm?

17 A Yes, sir.

18 Q Okay.

19 And then she said -- Karen said  
20 that she was on the second floor; is that  
21 right?

22 A Yeah. The accountant's office  
23 lets you into like this common area.

24 Q Okay.

25 A And then there's unobstructed --

1 MACGILLIVRAY

2 there's steps, went up to the second  
3 floor, and there was an open door, we went  
4 inside, and Karen Gandolfo was in an  
5 office.

6 Q Did you announce yourselves as  
7 you were going in, inside that second --  
8 that open door?

9 A I believe when we -- when we  
10 came upon her, I believe I identified  
11 myself and handed her -- I believe I  
12 handed her the summons and complaint.

13 Q She said she was startled.  
14 Is that consistent with what you  
15 remember?

16 A I don't recall that, but I can't  
17 testify to her internal feelings.

18 Q No, I know.  
19 But, you know, somebody can look  
20 startled when you see them, right?

21 A That's not my recollection, but  
22 I --

23 Q Okay.

24 A I can't speak to it.

25 Q And so what happened? Did you

1 MACGILLIVRAY

2 give her the summons and complaint or --

3 A I believe I did.

4 Q Did you think that that was

5 effective service of process?

6 MS. COPPLER: Objection. Calls

7 for a legal --

8 Q At this point, I can ask that

9 because you're process serving. It's not

10 a legal issue.

11 Did you think that you were

12 fulfilling your task by giving it to

13 Karen?

14 A I'm not sure.

15 Q Okay.

16 Did you try and serve Shant

17 again anywhere else after that?

18 A Well, I want to say that I did

19 ask Karen for Shant's whereabouts to help

20 aid in serving Shant.

21 Q Did she respond?

22 A As I recall, she did not provide

23 that information.

24 Q Okay.

25 And so did you, then, try

1 MACGILLIVRAY

2 anywhere else to serve Shant?

3 A I don't recall the -- you know,  
4 the -- which came first, if that makes  
5 sense.

6 Q Okay.

7 A But I made several attempts to  
8 serve Shant at the 520 address.

9 Q Okay.

10 I mean -- and with respect to  
11 the open door, Karen said that the public  
12 access area was locked or whatever, just  
13 as you describe, and that she's then on a  
14 second -- in a second floor unit with -- I  
15 guess without public access from her  
16 office; is that correct?

17 A I was granted access by the  
18 tenant.

19 Q Okay.

20 Did you believe that the tenant  
21 had the authority to do that?

22 MS. COPPLER: Objection. Calls  
23 for a legal conclusion.

24 You can answer.

25 Q Did you believe that that was

1 MACGILLIVRAY

2 appropriate as a process server?

3 A I did.

4 Q Okay.

5 Why?

6 A Because the tenant had access,  
7 so I believed that their granting me  
8 access was proper.

9 Q Okay.

10 Your internal procedures as they  
11 apply to this case, when entering a  
12 taxpayer's premises, would you have gone  
13 through the tenant's premises for the  
14 purpose of confronting the taxpayer?

15 A I'm not sure.

16 Q Okay. Okay.

17 MR. HANAMIRIAN: Ari and Cat,  
18 just can you give me a couple minutes?  
19 I want to go -- I'll just go on mute  
20 for a couple minutes, and then see if  
21 there's anything else. But,  
22 otherwise, we're probably close to  
23 done, all right?

24 MS. COPPLER: Okay. Thank you.

25 (Pause in proceedings.)

1 MACGILLIVRAY

2 BY MR. HANAMIRIAN:

3 Q I mean, just as a little bit of  
4 a follow-up on the interaction with this  
5 Karen Gandolfo because she was just so --  
6 she was pretty compelling about her  
7 interaction with you and with the other  
8 agent.

9 Did she -- she said that the  
10 other revenue officer did not identify  
11 herself.

12 Do you recall the other agent  
13 identifying herself in this process?

14 A I do not recall.

15 Q I can't -- I can't ask you  
16 blanket procedural questions.

17 MR. HANAMIRIAN: But see if this  
18 works, Cat.

19 Q Was it common for you to serve a  
20 summons and complaint in any case in which  
21 you were involved in?

22 MR. HANAMIRIAN: Is that okay,  
23 Cat?

24 MR. KUNOFSKY: I think we can  
25 actually -- for what it's worth,

1 MACGILLIVRAY

2 that's a decision that the trial  
3 attorney for a DOJ case just makes.

4 MR. HANAMIRIAN: Okay. Okay.

5 All right.

6 BY MR. HANAMIRIAN:

7 Q Have you ever served a summons  
8 and complaint in any other case in which  
9 you've been involved in, Mike?

10 A Yes.

11 Q Okay.

12 How long have you been with the  
13 service?

14 A 30 years.

15 Q What's your background? Where  
16 did you start and where did you -- I know  
17 where you are, but where did you start?

18 A I came on in 1991 --

19 Q Okay.

20 A -- as a revenue officer in Mays  
21 Landing, New Jersey.

22 Q Okay. Oh, so you came right in  
23 as a revenue officer.

24 What's your background?

25 A I was a -- I graduated from

1 MACGILLIVRAY

2 Rutgers.

3 Q Okay.

4 A I substitute taught for a little  
5 while and then became a revenue officer.

6 Q Okay.

7 What's your education  
8 background? Accounting or --

9 A I have a bachelor's degree in  
10 sociology.

11 Q Oh, okay. Okay.

12 And so then you're just straight  
13 through with the service since that time?

14 A Yes, sir.

15 Q And in the same role, as an RO?

16 A No.

17 Q Okay.

18 A I was a revenue officer until  
19 the late '90s, I believe.

20 Q Okay.

21 A I became a cadre manager at the  
22 time.

23 Q Where was that?

24 A That -- the cadre manager, they  
25 had you -- I was working in the old Ocean

1 MACGILLIVRAY

2 POD at the time, which is now Freehold,  
3 and they would send you to different  
4 groups that needed a manager.

5 Q Oh, okay.

6 A Then I finally became a manager  
7 in Cherry Hill. I stepped down for  
8 personal reasons. The job wasn't a good  
9 fit for me.

10 In, I'm going to say, 2001, I  
11 came back to be a revenue officer again.  
12 I was a revenue officer from then until  
13 2019. And I'm currently a program  
14 analyst.

15 Q What's that mean, program  
16 analyst?

17 A We update the Internal Revenue  
18 manuals, provide guidance to the field.

19 Q Okay.

20 A Things of that nature.

21 MR. HANAMIRIAN: Okay. Okay.

22 Good.

23 All right, thank you for your  
24 time, Mike.

25 THE WITNESS: Thank you, sir.

1 MACGILLIVRAY

2 MR. HANAMIRIAN: Ari or Cat?

3 MS. COPPLER: Yes, we are going  
4 to have a few questions, but would you  
5 mind giving us about like 10 minutes  
6 or so just to get them ready, if  
7 that's all right with you?

8 MR. HANAMIRIAN: Sure.

9 MS. COPPLER: Thank you so much.

10 Can we go off the record, then?

11 MR. HANAMIRIAN: Yes, sure.

12 (Discussion held off the record)

13 EXAMINATION BY

14 MS. COPPLER:

15 Q Mr. MacGillivray, do you  
16 understand that you're still under oath?

17 A Yes.

18 Q Perfect. Thank you. I just  
19 have a few follow-up questions. This  
20 isn't going to take long at all.

21 So, first of all, you mentioned  
22 earlier on today that there were other  
23 revenue officers who were helping you out  
24 at this case.

25 Were they more so helpers?

1 MACGILLIVRAY

2 A I would say yes.

3 Q So they were just assisting you  
4 in your investigation?

5 A Yes. They were lower-graded  
6 revenue officers assigned by the  
7 supervisor to assist me.

8 Q Thank you.

9 And when you first met Shant in  
10 person at the 520 Navesink property, did  
11 he say that Hilde was his ex-wife?

12 A He did.

13 Q Did Shant say that Hilde was no  
14 longer living in the United States?

15 A He did.

16 Q You also previously mentioned  
17 that you sent out numerous postal tracers.

18 Did you request any postal  
19 tracers after the litigation began?

20 A I believe that when I was unable  
21 to serve Shant with the summons and  
22 complaint that a follow-up postal tracer  
23 was processed.

24 Q And then you also testified  
25 earlier that there were multiple entities

1 MACGILLIVRAY

2 owned by Shant, right?

3 A Yes.

4 Q Okay.

5 And when you said that they were  
6 owned, do you mean like legal ownership or  
7 do you mean that Shant controlled these  
8 entities?

9 A Shant controlled these entities.

10 Q Okay.

11 And kind of along the same  
12 lines, you mentioned that many of the  
13 entities may have been sharing the same  
14 address at the Village Mall. And you had  
15 testified there was nothing significant in  
16 and of itself that they were sharing the  
17 address.

18 But may it have indicated that  
19 those entities were controlled by one  
20 person or similar people?

21 A Yes.

22 Q I'm sorry. We're kind of  
23 skipping around here, but there's only a  
24 few questions.

25 Next thing you had talked about,

1 MACGILLIVRAY

2 you know, the significance of the deeds  
3 for all the properties.

4 And if you just recall, for  
5 example, the 520 Navesink property deed,  
6 did it seem to indicate that the property  
7 was being transferred between family  
8 members?

9 A Yes.

10 Q And did that deed, for example,  
11 show a small dollar amount of  
12 consideration?

13 A A dollar, yes.

14 Q Okay.

15 What about for the Village Mall;  
16 do you recall that deed?

17 A Yes. It was a similar  
18 situation.

19 Q Perfect. Thank you.

20 Did any of the Pachava trustees  
21 or Shant's power of attorney or whoever  
22 you contacted ever provide you with a copy  
23 of the Shant Hovnanian Asset Trust trust  
24 agreement?

25 A Not that I recall.

1 MACGILLIVRAY

2 Q Okay.

3 So you would have no way of  
4 knowing if the Shant Hovnanian Asset Trust  
5 had sub-trusts for each kid, would you?

6 A No.

7 MS. COPPLER: Okay. That's all  
8 I have. Thank you.

9 MR. HANAMIRIAN: I have no  
10 follow-up. I'm fine. Thanks.

11 MR. KUNOFSKY: We'll want to  
12 order a copy of the transcript.

13 (Time noted: 2:58 p.m. EST)

14

15

16

17

18

19

20 MICHAEL MacGILLIVRAY

21

22 Subscribed and sworn to

23 before me this day

24 of , 2020.

25

----- I N D E X -----

WITNESS                      EXAMINATION BY                      PAGE

MICHAEL MACGILLIVRAY

MR. HANAMIRIAN                      5

MS. COPPLER                      138

----- EXHIBITS -----

PLAINTIFF'S                      FOR ID.

Exhibit 1                      5

Office of Chief Counsel Internal  
Revenue Service Memorandum

----- EXHIBITS -----

DEFENDANTS'                      FOR ID.

Exhibit 1                      16

PNC Bank Records  
Bates-stamped USAPROD-000458 through  
USAPROD-000510

Exhibit 2                      19

Postal Tracer  
Bates-stamped USAPROD-000536

Exhibit 3                      23

Various Documents  
Bates-stamped USAPROD-000537 through  
USAPROD-000543

Exhibit 4                      31

Response to Summons  
Bates-stamped USAPROD-000785 through  
USAPROD-000800

Exhibit 5                      37

Response to Summons  
Bates-stamped USAPROD-000544 through  
USAPROD-000566

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2	DEFENDANTS'	FOR ID.
3	Exhibit 6	47
	Summons	
4	Bates-stamped USAPROD-000890 through	
	USAPROD-000937	
5		
	Exhibit 7	52
6	Response to Summons	
	Bates-stamped USAPROD-000567 through	
7	USAPROD-000649	
8	Exhibit 8	54
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9	Bates-stamped USAPROD-000858 through	
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11	Various Documents	
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12	USAPROD-000784	
13	Exhibit 10	63
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14	Bates-stamped USAPROD-000938 through	
	USAPROD-000997	
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16	Response to Subpoena	
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17	USAPROD-000687	
18	Exhibit 12	67
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19	Bates-stamped USAPROD-000300 through	
	USAPROD-000334	
20		
	Exhibit 13	69
21	Corrective Deed	
	Bates-stamped USAPROD-000335 through	
22	USAPROD-000339	
23	Exhibit 14	71
	Trust Agreement Amendment	
24	Bates-stamped USAPROD-000342 through	
	USAPROD-000344	
25		

## ----- EXHIBITS -----

DEFENDANTS' FOR ID.

Exhibit 15 73

Deed

Bates-stamped USAPROD-000415 through  
USAPROD-000418

Exhibit 16 74

Form 1041 for 2013

Bates-stamped USAPROD-000345 through  
USAPROD-000364

Exhibit 17 79

Form 1041 for 2014

Bates-stamped USAPROD-000365 through  
USAPROD-000386

Exhibit 18 81

Letter

Bates-stamped USAPROD-000409

Exhibit 19 81

Letter

Bates-stamped USAPROD-000410

Exhibit 20 82

Letters

Bates-stamped USAPROD-000413 through  
USAPROD-000414

Exhibit 21 89

Documents

Bates-stamped USAPROD-000411 through  
USAPROD-000412

Exhibit 22 93

Notice of Federal Tax Lien

Bates-stamped USAPROD-000327

Exhibit 23 97

Notice of Federal Tax Lien

Bates-stamped USAPROD-000328

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Bates-stamped USAPROD-001042 through	
USAPROD-001043	
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Bates-stamped USAPROD-000001 through	
USAPROD-000326	

C E R T I F I C A T E

STATE OF NEW YORK )

: SS

COUNTY OF NEW YORK)

I, Stephanie M. Butler, a Notary  
Public within and for the State of New York,  
do hereby certify:

That MICHAEL MACGILLIVRAY, the  
witness whose deposition is hereinbefore set  
forth, was duly sworn by me and that such  
deposition is a true record of the testimony  
given by the witness.

I further certify that I am  
not related to any of the parties to this  
action by blood or marriage, and that I am  
in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 15th day of  
February, 2021.

---

STEPHANIE M. BUTLER

DEPOSITION ERRATA SHEET

Our Assignment No: SY001289

Case Caption:

UNITED STATES OF AMERICA

vs.

SHANT HOVNANIAN, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript  
of my deposition taken in the captioned  
matter or the same has been read to me,  
and the same is true and accurate, save  
and except for changes and/or corrections,  
if any, as indicated by me on the  
DEPOSITION ERRATA SHEET hereof, with the  
understanding that I offer these changes  
as if still under oath.

SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_  
MICHAEL MACGILLIVRAY

Subscribed and sworn to on the \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_ before me,

\_\_\_\_\_  
Notary Public,  
in and for the State of \_\_\_\_\_

DEPOSITION ERRATA SHEET

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MICHAEL MACGILLIVRAY

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MICHAEL MACGILLIVRAY

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